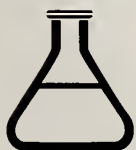
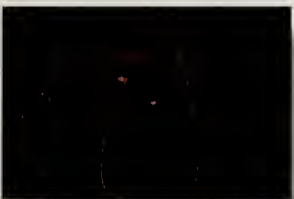
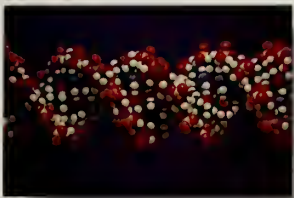


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MANAGING CHANGE FOR GLOBAL CHALLENGES

Fiscal Year 1996
A Patent and Trademark Office Review



MANAGING CHANGE FOR GLOBAL CHALLENGES

Fiscal Year 1996

A Patent and Trademark Office Review

U.S. Department of Commerce
William M. Daley, Secretary

U.S. Patent and Trademark Office
Bruce A. Lehman, Assistant Secretary of Commerce
and Commissioner of Patents and Trademarks

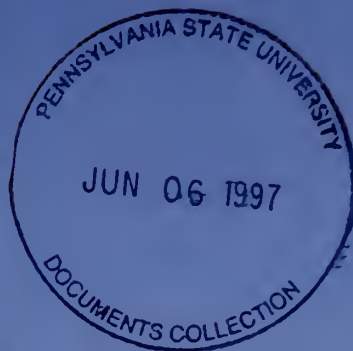


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Message from the Commissioner

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Never before has intellectual property played a greater role in stimulating America's economy. As budgets for government research and development have declined, patents have assumed ever-increasing importance in stimulating investment in high-technology industries and in creating jobs for millions of Americans. Trademarks, meanwhile, have facilitated business development by offering protection from unfair competition while helping consumers select products and services that satisfy their needs. Because patents and trademarks are now so inextricably linked to our national economic well-being, the ability of the Patent and Trademark Office (PTO) to conduct business efficiently and effectively is more important than ever before.

On the legislative front, we received strong bipartisan support in the 104th Congress, resulting in enactment of several bills that will enhance the protection of intellectual property. Our international negotiations and consultations continue to secure and expand protection of U.S. intellectual property throughout the world. We are working closely with other U.S. Government agencies, the private sector, and our foreign counterparts to enhance U.S. economic development on an international scale.

To achieve our goal of customer satisfaction, we need resources that will enable us to manage change by adopting cutting-edge technology and proven business concepts. Achieving this goal is being made more difficult by budget cuts. The PTO relies totally on fee revenue—not taxpayer support—to fund its operations, and much of that fee revenue is subject to the congressional appropriations process. The Omnibus Consolidated Appropriations Act withheld approximately \$54 million of PTO's fee revenue from its budget for FY 1997. Since FY 1992, a total of \$142 million in spending authority has been withheld from the PTO. These deep budget cuts have begun to affect PTO business operations.

Meeting our fiscal challenge will be a daunting task, but it is one all of us in the intellectual property community must resolve if America's innovators are to receive the support and assistance they rightfully deserve from the United States Patent and Trademark Office.



Bruce A. Lehman
Assistant Secretary of Commerce and
Commissioner of Patents and Trademarks

Executive Summary

The Patent and Trademark Office (PTO) made significant progress in achieving its strategic goals while facing the challenges of FY 1996.

- The PTO received 191,116 utility, plant, and reissue (UPR) patent applications, and issued 105,529 UPR patents in FY 1996.
- The PTO received 22,353 provisional patent applications.
- The PTO received 200,640 trademark applications and registered 91,339 trademarks in all classes of goods and services.
- The PTO continued to strengthen its performance measurement system by redesigning its planning, budget, and evaluation process.
- Bills were introduced in Congress in 1996 proposing to convert the PTO into a performance-based, wholly owned government corporation under the policy direction of the Secretary of Commerce. The bills did not pass; they will be reintroduced in the 105th Congress.
- The PTO actively participated in international and legislative activities that influence the laws and agreements governing intellectual property rights.
- In preparation for the 21st century, the PTO continued efforts to transform patent processing, trademark processing, human resource management, and resource management into more business-like, efficient systems.
- The PTO expanded its customer outreach efforts by conducting customer focus sessions and surveys.



The Patent and Trademark Executive Committee

(left to right, front row) Philip G. Hampton, Assistant Commissioner for Trademarks; Bradford R. Huther, Associate Commissioner and Chief Financial Officer; Edward R. Kazenske, (Acting) Assistant Commissioner for Patents; (left to right, back row) Dennis Shaw, Chief Information Officer; Robert L. Stoll, Administrator for Legislative and International Affairs; Nancy Linck, Solicitor; Bruce Lehman, Assistant Secretary of Commerce and Commissioner of Patents and Trademarks; and Lawrence J. Goffney, Jr., (Acting) Deputy Assistant Secretary of Commerce and Deputy Commissioner of Patents and Trademarks.

Our Mission, Our Business

Our Mission

.....
The mission of the Patent and Trademark Office (PTO) is to enhance industrial and technological progress in the United States by promoting the use of intellectual property rights—patents, trademarks, and copyrights—as a means of achieving economic prosperity. The PTO does this by:

- administering the laws relevant to patents and trademarks;
- advising the Secretary of Commerce, the President of the United States, and the Administration on patent, trademark, and copyright protection; and
- advising the Secretary of Commerce, the President of the United States, and the Administration on the trade-related aspects of intellectual property.

Our Business

.....
The PTO has three core business activities:

- processing patent applications;
- registering trademarks; and
- disseminating information about patents and trademarks.

At the close of FY 1996, the PTO occupied a total of 1,601,371 square feet of space in 16 buildings in Arlington, Virginia, and two storage facilities in Springfield, Virginia. The PTO also leased storage facilities in Boyers, Pennsylvania. In FY 1996, the PTO employed 5,125 full-time-equivalent (FTE) staff who:

- give inventors and entrepreneurs the protection and encouragement they need to turn their creative ideas into tangible products;
- provide innovators, businesses, and entrepreneurs protection for their inventions and trademarks;
- offer leadership in intellectual property rights policy and trade issues; and
- ensure that PTO customers receive the highest possible level of quality and customer service in all aspects of PTO operations.

Unlike most other government agencies, the PTO is funded entirely by user fees. This has been true since the passage of the Omnibus Budget Reconciliation Act of 1990. The PTO therefore has a unique responsibility to ensure that users receive efficient, cost-effective services and products that meet their needs and expectations.

PTO programs are conducted under the following principal statutory authorities:

15 U.S.C. 1051-1127 contains provisions of the Trademark Act of 1946 that govern the administration of the trademark registration system of the Patent and Trademark Office.

15 U.S.C. 1511 states that the Patent and Trademark Office is under the jurisdiction and supervision of the Department of Commerce.

35 U.S.C. contains basic authorities for administration of patent laws, derived from the Act of July 19, 1952, and subsequent enactments. Revenues from fees are available to the Commissioner to carry out, to the extent provided

Our Strategy

for in appropriations acts, the activities of the Office. The Patent and Trademark Office is authorized to charge international fees for activities undertaken pursuant to the Patent Cooperation Treaty. Deployment of automated search systems of the Office to the public is authorized.

44 U.S.C. 1337-1338 contains authority to print patents, trademarks, and other matters related to the business of the Office.

Our Strategy

.....
Intellectual property rights are key to America's success in the global marketplace. If U.S. businesses are to remain competitive, the effective protection of intellectual property rights must be guaranteed throughout the world.

The two main goals of the PTO are:

- to be a leader in developing intellectual property rights policy; and
- to give our customers the highest possible level of quality and services.

The PTO's Strategic Plan for 1996 through 2000 reflects the Administration's focus on the role of intellectual property in a global and technology-based economy. The Plan contains strategies for achieving the PTO's two main goals.

To achieve our first goal of playing a leadership role in intellectual property rights policy development, the PTO has established the following three strategies:

- participate in international cooperative arrangements;

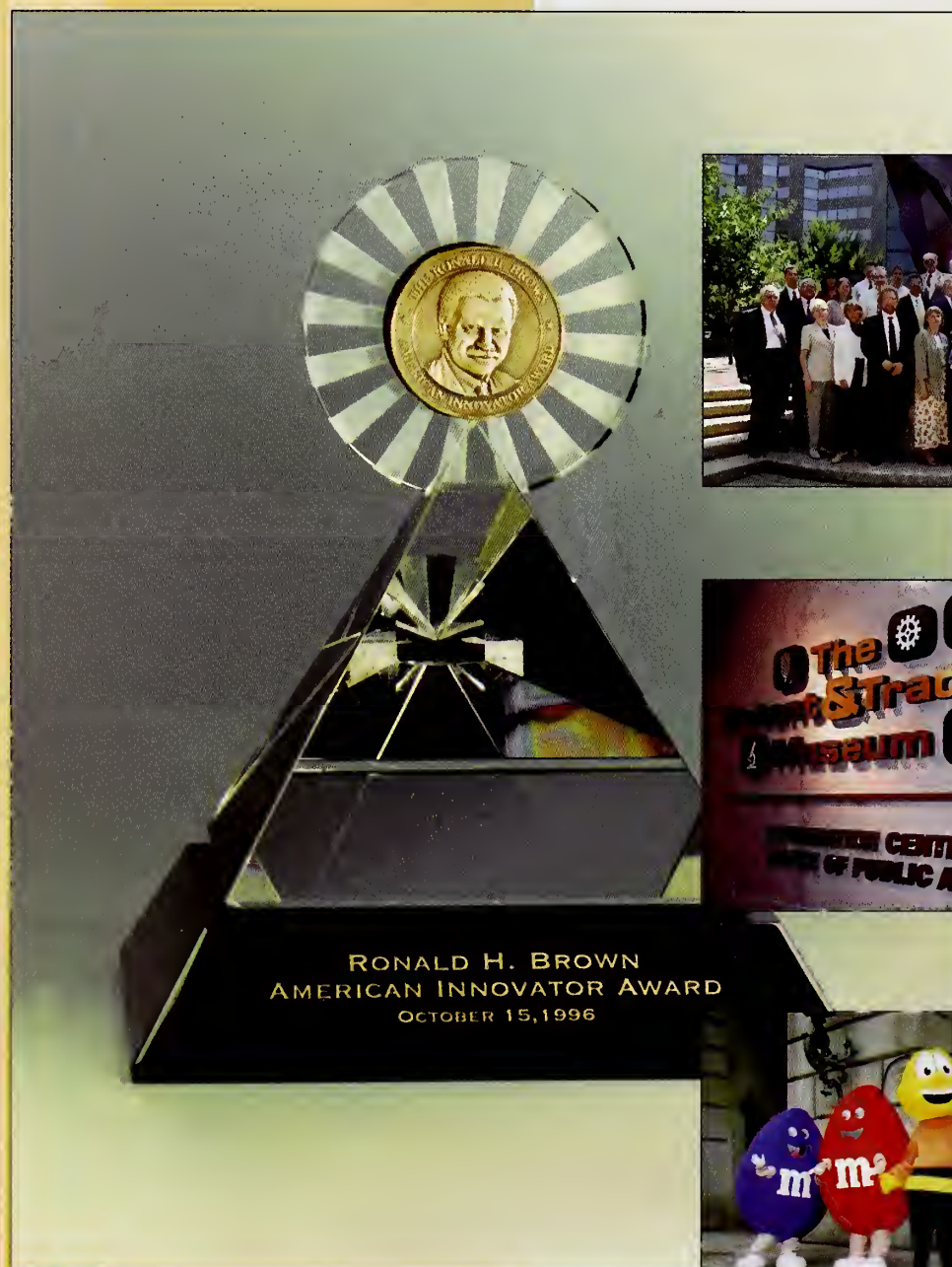
- improve intellectual property systems in the United States and abroad; and
- cooperate with other government agencies to ensure that intellectual property concerns are adequately addressed.

To achieve our second goal of providing our customers with the highest possible level of quality and services, the PTO has established the following four strategies:

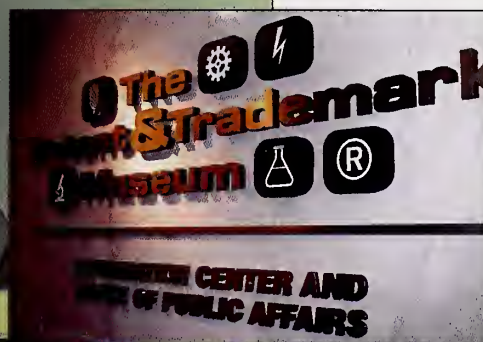
- enhance human resources;
- leverage information technologies;
- employ better processes; and
- manage resources effectively.

Progress toward these goals is described in the pages that follow.

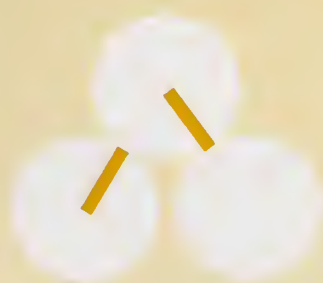




RONALD H. BROWN
AMERICAN INNOVATOR AWARD
OCTOBER 15, 1996



Our Progress



Our Progress

The Patent and Trademark Office has identified two goals for the agency. The first is to:

1. Be a leader in intellectual property rights policy development.

Participate in International Cooperative Arrangements

.....
The PTO participates actively in international negotiations, consultations, and information-sharing efforts to develop and improve systems for the effective grant and protection of intellectual property rights. FY 1996 was an especially active year for these efforts.

Intellectual Property Conference of the Americas

The PTO and co-sponsors from the private sector organized the Intellectual Property Conference of the Americas, which took place in July 1996 in Santa Monica, California. The U.S. Agency for International Development provided support and helped bring together

almost 500 participants from the public and private sectors throughout the Western Hemisphere.

Conference participants looked at ways they might cooperate in the search and examination of patent and trademark applications and explored the potential for hemisphere-wide patent and trademark applications. They also examined ways in which countries could exchange information, training, and technical assistance in order to meet their obligations under bilateral, regional, and international agreements and generally to improve enforcement of intellectual property rights throughout the Western Hemisphere.

Participants significantly increased their understanding of the relationship between the positions and needs of the countries of the Western Hemisphere and the establishment and maintenance of effective intellectual property protection systems. Participants formed working relationships that will lead to information sharing and cooperation in planning, training, and technical assistance. Intellectual property owners throughout the Western Hemisphere will be the beneficiaries.

Berne Protocol, New Instrument and Database Protection

The PTO is committed to making progress in the World Intellectual Property Organization (WIPO) to improve the protection of works protected by copyright and neighboring rights. We must build upon the international standards set in the Agreement on Trade-Related Aspects of Intellectual Property (TRIPs), especially because of the need to address intellectual property issues associated with the global information infrastructure. Accordingly, with the active support of the PTO, the members of WIPO are work-



ing to establish two new international agreements, as described below.

- A Protocol to the Berne Convention for the Protection of Literary and Artistic Works would modernize the Berne Convention to take into account new forms of expression and new uses of copyrighted works that have evolved through technology since the Berne Convention's most recent revision in 1971.
- A New Instrument for the Protection of Performers and Producers of Phonograms would improve international standards of protection for sound recordings and grant protection to certain performers in their live performances.

Many countries, including the United States, submitted treaty proposals in FY 1996. Three draft treaties, based on those submissions and views expressed in meetings of the Committee of Experts, were considered at the Diplomatic Conference on Certain Copyright and Neighboring Rights Issues, held in December 1996 at WIPO headquarters in Geneva. In preparing for that conference, the PTO held a public briefing in November 1996 to discuss the chairman's text and invite interested parties to submit written comments on that text. Copies of the draft treaties and other information relevant to the Diplomatic Conference are available to the general public at the PTO's World Wide Web site: (<http://www.uspto.gov>).

Trilateral Cooperation

The PTO continued its 13-year trilateral cooperation with the European Patent Office (EPO) and the Japanese Patent Office (JPO). The three organizations recognize the need for international cooperation in the field of industrial property systems, the need to

address the rapid development of information and communication technologies, and the importance of protecting emerging technologies appropriately. Representatives of the three offices met in the Hague in April 1996 to pursue cooperative efforts in areas such as search tools, patent information, and electronic filing.

Trade-Related Aspects of Intellectual Property

PTO officials analyzed intellectual property laws of World Trade Organization (WTO) member countries in preparation for Trade-Related Aspects of Intellectual Property (TRIPs) Council meetings, at which developed countries' progress in complying with the TRIPs obligations was reviewed. All developed countries were required to submit laws and regulations governing intellectual property to the TRIPs Council in early 1996. The PTO helped to assemble and prepare the U.S. submission. The TRIPs Council Copyright Review was held in July 1996; the Trademark Review was held in November 1996.

North American Free Trade Agreement

PTO officials have participated in several bilateral meetings of the U.S.-Mexico Intellectual Property (IP) Working Group to address implementation of the IP chapter of the North American Free Trade Agreement. Discussions focused on enforcement of copyrights and trademarks and on Mexico becoming a party to the International Convention for the Protection of New Varieties of Plants.

Our Progress

Free Trade Area of the Americas

PTO experts assisted in planning for this hemisphere-wide initiative, which will include provisions on intellectual property rights. PTO experts attended the first meeting of the Free Trade Area of the Americas (FTAA) Intellectual Property Working Group and drafted U.S. proposals for continuing work of the group, eventual negotiations of an IP chapter of the FTAA, and a paper on the effect of emerging technologies on IP. The U.S. proposals were presented at the second meeting in November 1996.

The Hague Agreement

Consultations on drafting a New Act of the Hague Agreement Concerning the International Registration of Industrial Designs continued in FY 1996. The U.S. delegation, led by PTO experts, moved the consultations toward a system that conforms to the system for the protection of design patents. A Sixth Session of the Committee of Experts was held in early November 1996.

Transatlantic Business Dialogue

The PTO has been actively involved in the Transatlantic Business Dialogue (TABD) and its Issue Group on Intellectual Property Rights. The TABD brings together business and government officials from the United States and the European Union to identify and eliminate barriers to transatlantic trade and investment and to forge closer economic relations between the parties. Key goals in this dialogue are to promote full and com-

plete implementation of the TRIPs Agreement by the United States, the European Union, and key third-country markets. The TABD was launched in November 1995 and reconvened in November 1996.

Asia Pacific Economic Cooperation

In August 1996, at the meeting of experts of the Asia Pacific Economic Cooperation (APEC), the U.S. delegation presented a proposal for establishing a trademark mailbox system to simplify the filing of trademarks among APEC member offices. PTO officials provide technical advice on U.S. views concerning the Individual and Collective Action Agendas.

Well-Known Trademarks

U.S. citizens and businesses own many of the most famous and valuable trademarks in the world. Representatives of the PTO at WIPO meetings have been stressing the importance of giving these marks effective worldwide protection.

Intellectual Property and the Environment

At the Food and Agricultural Organization, the Convention on Biological Diversity, and the World Trade Organization's Committee on Trade and the Environment, the PTO aided the U.S. Government in resisting efforts by certain countries to weaken, rather than improve, intellectual property rights standards.

Our Progress

Other Negotiations, Consultations, and Information Sharing

The PTO has been active in U.S.-China Intellectual Property Rights (IPR) consultations to assess China's adherence to the February 1995 Bilateral IPR Agreement in which China committed to improved protection and enforcement of U.S. copyrights and trademarks.

In conjunction with the U.S. Trade Representative's office and the American Institute in Taiwan, the PTO has been reviewing Taiwan's progress in meeting its obligations under the 1992 U.S.-Taiwan IPR Understanding.

PTO officials have been preparing for and meeting with the U.S.-Russia and U.S.-Ukraine bilateral IP Working Groups, which were created under the trade agreements to address intellectual property matters.

PTO experts attended bilateral meetings of Trade and Investment Committees with Peru, Colombia, and Venezuela.

PTO experts provided preparatory analysis to and participated in several rounds of negotiations with Honduras, El Salvador, and Nicaragua aimed at completing bilateral intellectual property agreements.

Improve Intellectual Property Systems in the United States and Abroad

.....

The 104th Congress saw considerable activity on intellectual property matters, and the PTO continued to work closely with the House and Senate Judiciary Committees and other congressional members and staff on a variety of legislative proposals. Congress passed and the President signed into law several bills, described below, that enhance the protection of intellectual property.

Biotech Processes

Public Law 104-41 (S. 1111), signed into law on November 1, 1995, clarifies patent law regarding "obviousness" to make it easier to receive patents for biotechnological processes.

Digital Performance Rights

P.L. 104-39 (S. 227), signed into law on November 1, 1995, gives copyright owners of sound recordings an exclusive right to perform their sound recordings publicly by means of digital transmissions.



Our Progress

Trademark Dilution

P.L. 104-98 (H.R. 1295), signed into law on January 16, 1996, amends the Lanham Act to create a Federal cause of action to protect famous marks from unauthorized users that trade upon the goodwill and established renown of such marks, thereby diluting their distinctive quality.

Anticounterfeiting

P.L. 104-153 (S. 1136), signed into law on July 2, 1996, increases civil and criminal penalties for counterfeiting copyrighted and trademarked products; makes trafficking counterfeit goods or services an offense under the Racketeer, Influenced, and Corrupt Organizations (RICO) Act; expands seizure authority; and makes it more difficult for seized goods to re-enter the market.

Major legislation described below, though supported by the PTO and the Administration, was not enacted.

Omnibus Patent Reform

Omnibus patent reform bills (H.R. 3460 and S. 1961) were introduced in both the House and Senate but did not reach a floor vote. Bipartisan efforts to include the bills' provisions in the end-of-the-session omnibus spending bill were unsuccessful. The bills would have converted the PTO into a wholly-owned government corporation under the policy direction of the Secretary of Commerce. The omnibus bills would have made important patent reforms such as: providing for early publication of patent applications (H.R. 1733); establishing a defense to patent infringement based on previous domestic use (H.R. 2235); regulating inven-

tion development service firms (H.R. 2419 and S. 909); and improving patent re-examination procedures (H.R. 1732 and S. 1070). The PTO anticipates that this legislation will be reintroduced by the 105th Congress.

National Information Infrastructure

Also introduced in the 104th Congress, but not passing, was legislation (S. 1284 and H.R. 2441) to assure copyright protection for works transmitted over the National Information Infrastructure. The bills were intended only to fine-tune copyright law as it applies to the new digital environment. Unfortunately, interested parties could not agree on how to deal with on-line service provider liability and devices used to circumvent copyright protection systems. Again, the PTO hopes that the parties reach agreement soon and that the 105th Congress produces a consensus bill.

FY 1996 and 1997 PTO Appropriations

Of fees paid by inventors, \$29 million for FY 1996 and \$54 million for FY 1997 were not appropriated to the PTO.

The PTO is entirely fee-funded; all of its expenses are covered by the fees its customers pay for issuance of a patent, registration of a trademark, and other services. As a result of the Omnibus Budget Reconciliation Act (OBRA) of 1990, a surcharge is levied on patent fees, and the proceeds are placed in a separate account that is subject to the appropriations process. The surcharge fees amount to approximately 20 percent of PTO's annual

revenues. For FY 1996, congressional appropriators gave PTO \$82 million from the \$111 million deposited in the account; approximately \$29 million in budget authority was withheld. For FY 1997, congressional appropriators gave PTO just over \$61 million out of the \$115 million deposited in the account; the other \$54 million in budget authority was diverted to other government programs. Including these amounts, almost \$142 million in budget authority, consisting of fees paid by inventors, has not been appropriated from the patent surcharge account to the PTO since FY 1992. This arrangement is scheduled to expire after FY 1998.

Cooperate with Other Government Agencies

..... *Visiting Scholars Program*

Since 1985, the PTO has offered the Visiting Scholars Program to intellectual property officials from more than 30 foreign countries. In two weeks of classroom and "hands-on" study, participants learn about the administration of intellectual property law, patent and trademark examination, and copyright protection, and gain an understanding of intellectual property protection as a tool for economic development. The program includes an introduction to elements of patent and trademark examination such as classification, search, office action preparation, communication with applicants, and final application processing. The program also includes a review of copyright law. This year's program (held late October through early November 1996) welcomed participants from Brunei, Cambodia, China, Estonia, India, Mexico, Saudi Arabia, United Arab Emirates, Ukraine, and Venezuela.

2. Provide our customers with the highest possible level of quality and services.

The PTO's second goal for the agency is to provide its customers with the highest possible level of quality and services in all its operations.

Customer Standards

..... *Patent and Trademark Customer Survey*

During 1995 and 1996, surveys were conducted to measure the satisfaction of the PTO's patent and trademark customers. The PTO is using the results of the 1996 survey to target customer service areas that need improvement and to measure change in customer satisfaction since the 1995 survey. Findings of the study are classified by Patents and Trademarks.

Patents

The Patent Process

Customers' overall satisfaction with the patent process in 1996 did not change from the 1995 results. The mean score for overall customer satisfaction remained at 3.3 on a 5-point scale, and the percentage of satisfied customers remained at approximately 50 percent.

As in the 1995 survey results, 1996 customers identified the "outcome" as the most important component of the patent process with "staff competence" the second most important. Customers' satisfaction with "outcome" and "application procedure" improved from 1995 to 1996. Customers' satisfaction with "timeliness," "competence of staff," "handling

Our Progress

of problems,” and “responsiveness of staff” was lower in 1996 than in 1995.

The best predictors of overall satisfaction were “outcome of the process,” “competence of the staff,” and “decision-making process.” In these three categories the greatest gap existed between importance and satisfaction.

Patent Standards

The top three customer priorities have not changed since 1995: (1) “conducting thorough searches,” (2) “clear written communications,” and (3) “direct you promptly to the proper office or person.”

Although most 1996 respondents are satisfied with the patent standards, several areas show significantly lower satisfaction ratings than in 1995. Main areas of concern include: “clear written communications,” “conducting thorough searches,” and “returning telephone calls within one business day.” The two areas that did improve are: “provide legible correspondence” and “widely disseminate information on changes in practices and procedures before their effective date.”

The best predictors of overall satisfaction were “conduct a thorough search,” “set forth clearly in written communications the technical, procedural and legal position of examiners,” and “direct you promptly to the proper office or person.” In these three categories the greatest gap existed between importance and satisfaction.

Customer Priorities in Patent Processes

Customers rated the seven patent process categories from “not at all important” to “extremely important.” These scores were then ranked in order of importance using mean scores. The results for 1995 and 1996 are presented below. All seven process categories were ranked at the same level of importance in both 1995 and 1996. As would be expected, “outcome of the process” was rated the most important.

Comparison of 1995 and 1996 Patent Customer Priorities

Priority		
1995	1996	
1	1	Outcome of the process
2	2	Competence of staff
3	3	Decision-making process
4	4	Responsiveness and handling of problems by staff
5	5	Application process
6	6	Timeliness
7	7	Price

Trademarks

Trademark Process

Customers’ overall satisfaction in 1996 with the trademark process did not change from the 1995 results. The mean score for the overall customer satisfaction item remained at 3.5 on a 5-point scale, and the percentage of satisfied customers remained at approximately 64 percent.

As in the 1995 survey results, customers identified the "outcome" as the most important component of the trademark process.

Customers' satisfaction with "outcome" and "application process" improved from 1995 to 1996 along with "staff competence," "staff responsiveness," "decision-making process," and "price." Customers' satisfaction with "handling of problems" was lower in 1996 than in 1995.

Three of the best predictors (exclusive of price) of overall satisfaction were "outcome of the process," "application process," and "timeliness." "Timeliness," "responsiveness," "handling of problems by staff," and "competence of staff" show the largest gap between importance and satisfaction.

Trademark Standards

The top two customer priorities have not changed since 1995. "Clear written communications" remains the top priority, followed by "direct you promptly to the proper office or person."

Although most 1996 respondents are satisfied with the trademark standards, in several areas satisfaction was significantly lower than in 1995. Areas of concern include "direct you promptly to the proper office or person," "widely disseminate information on changes in practices and procedures," "return telephone calls within one business day," "respond to status letters within 30 days of receipt," "mail correct filing notices within 14 days of receipt," and "provide written first communication regarding registrability within three months of filing date." The one area that did improve was "clear written communications."

The best predictors of overall satisfaction were "set forth clearly in written communications the technical, procedural and legal position of examining attorney," "direct you promptly to the proper office or person;" and "return telephone calls within one business day or, if requested by the caller, provide an alternate point of contact." "Determine the registrability of trademarks within 13 months," "provide written first communication within three months of filing date," and "direct you promptly to the proper office or person" show the largest gaps between importance and satisfaction.

Customer Priorities in Trademark Processes

Customer respondents rated the seven trademark process categories on a 5-point scale from "not at all important" to "extremely important." These scores were then ranked in order of importance using mean scores. The top process category was ranked the same in level of importance in both 1995 and 1996. As would be expected, "outcome of the process" was rated as the most important. "Application process" moved from the sixth priority in 1995 to second in 1996. "Timeliness" moved from the third priority in 1995 to seventh in 1996.

Comparison of 1995 and 1996 Trademark Customer Priorities

Priority		
1995	1996	
1	1	Outcome of the process
6	2	Application process
2	3	Competence of staff
4	4	Responsiveness and handling of problems by staff
5	5	Decision-making process
7	6	Price
3	7	Timeliness

Our Progress

Patent Protection

Processing of patents, one of three core businesses of the PTO, has experienced steady growth in the last decade and is expected to continue growing well into the next century. The PTO is focusing its efforts to improve the patent process using re-engineering and quality techniques so our customers will be assured of the best possible service.

Applications

In FY 1996, the PTO received 191,116 utility, plant, and reissue (UPR) patent applications and 15,160 design applications.

The UPR patent application filings workload decreased by 13.6 percent from the previous year. This unusual decrease is the result of the transition to a 20-year patent term. The PTO experienced a surge in patent application filings during the week prior to June 8, 1995,

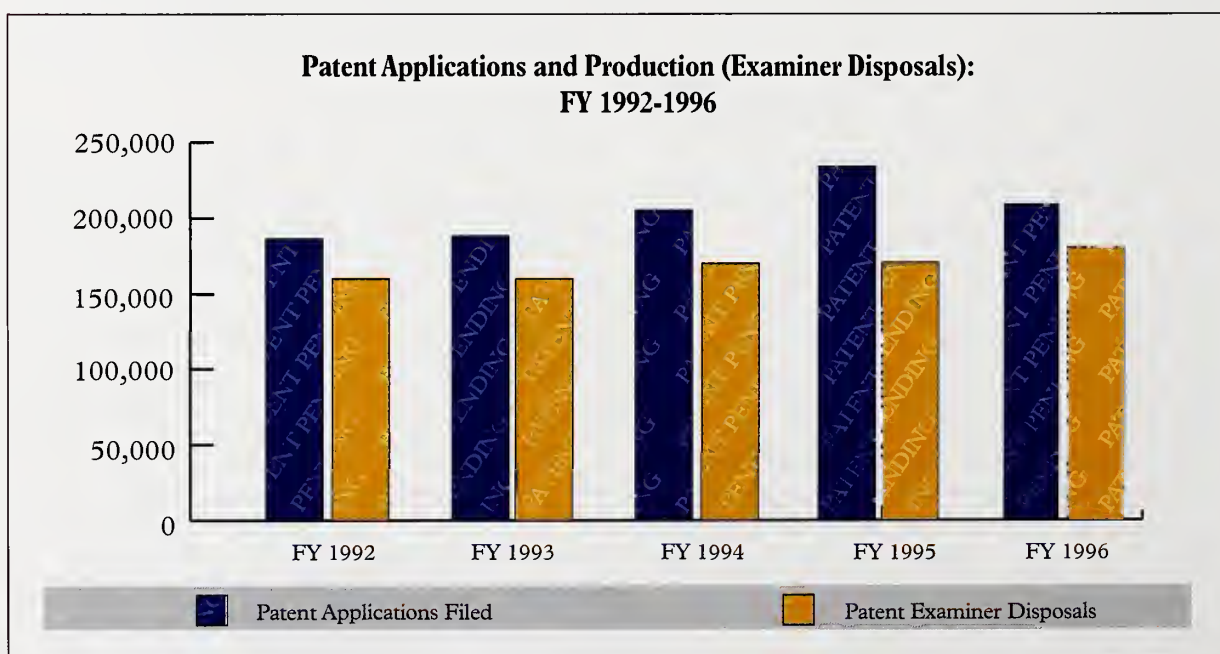
the date the legislation making the change became effective. During that week, the PTO received 28,483 UPR patent application filings, over 500 percent more than in the same week of the previous year.

Issues

In FY 1996, the PTO issued a total of 116,875 patents, including 11,346 design patents. This was an overall increase of 2,634 patents over the FY 1995 level.

Pendency

End-of-year average pendency to issue/abandonment time rose to 20.8 months, up from 19.2 months last fiscal year, reflecting the effect of personnel restrictions, restructured funding in the first half of the year because of the lack of full-year appropriations, and the surge in application filings in the years before FY 1996.



Changes in Patent Law

As a result of implementation of the Uruguay Round Agreements Act (P.L. 103-465), the PTO designed a new model for tracking and measuring pendency. The PTO will begin reporting cycle-time statistics in lieu of pendency effective FY 1997. Cycle time measures PTO time only (discounting waiting time caused by the applicant) per invention from original filing date to disposal by invention. Such reporting will allow for comparisons of examination time attributable to both the PTO (in terms of cycle time) and the applicant (total examination time from receipt to issue or abandonment, less cycle time). These statistics will be further divided by industry sector.

Trademark Protection

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Milestones

Several significant trademark milestones were observed in FY 1996. The PTO celebrated the 50th anniversary of implementation of the Lanham Act (Trademark Act of 1946) that modernized early trademark law and still forms the basis of the Federal registration system today. The number of applications filed exceeded 200,000 classes, and the PTO issued trademark registration number 2,000,000. The level of filings and registrations is notable because the current annual increases continue a trend that began with implementation of the Trademark Law Revision Act in 1990.

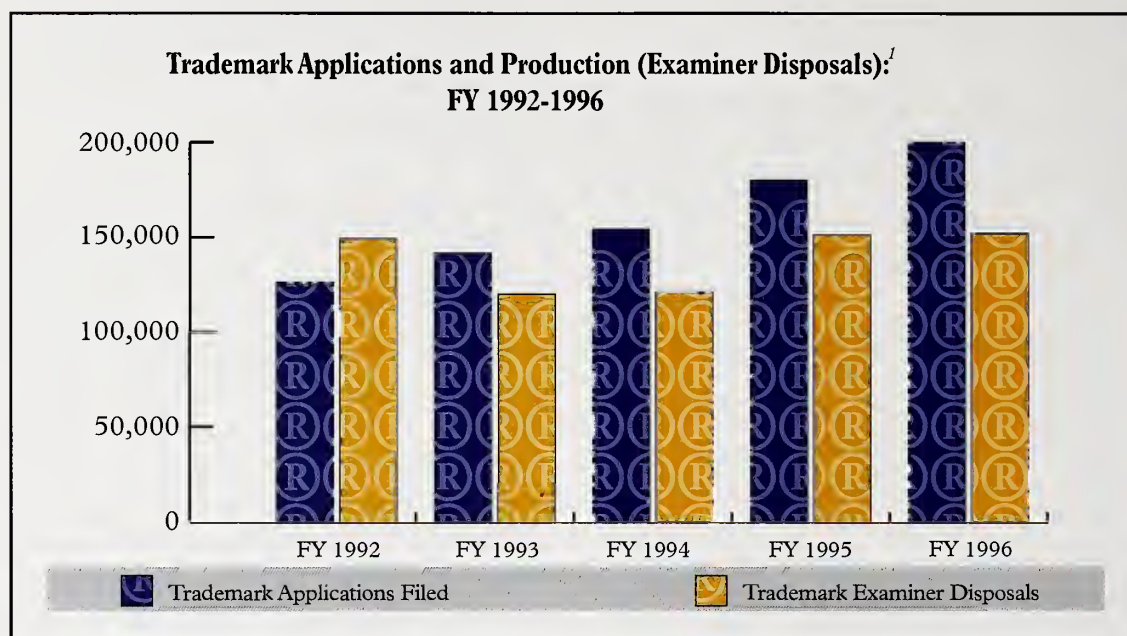
Applications

In FY 1996, the PTO received 200,640 trademark applications, over 14 percent more than last year's 175,307. The number of applications has increased at higher than anticipated rates, approximately 11 to 14 percent annually, over the last five years. In that time, the trademark application workload has increased 60 percent, though fiscal year staffing levels for the trademark process have increased by less than 10 percent.

Registrations

The number of certificates of registration for trademark applications, including extra classes, issued during FY 1996 was 91,339, representing an increase of 21 percent over the number issued in FY 1995.

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¹ Examiner disposals reflect first examination only.

Pendency

Trademark pendency in FY 1996 was 5.9 months from filing to first action and 16.5 months to registration. First action pendency increased from the previous year, although pendency to registration showed slight improvement. Continual increases in workload combined with less than adequate staffing have kept pendency at a level higher than planned.

Trademark examining attorneys completed 198,160 first actions on trademark applications in FY 1996, or 21 percent more than the goal and 12 percent more than the 176,764 actions taken in FY 1995. First actions provide an early indication of the likelihood that an application will be approved and thus are crucial to businesses in making decisions on commercializing their product or service.

Total first examination disposals in FY 1996 were 156,234, an increase of eight percent or 12,183 over the previous year.

As the PTO establishes new work processes, increases efficiency, and attains requested staffing levels, we expect pendency to first action and to registration/abandonment to return to our goal levels beginning in FY 1998.

Changes in Trademark Law

Congress amended the Lanham Act in FY 1996 to increase the protection of famous marks against piracy by trademark counterfeiters. It also increased the civil and criminal penalties for counterfeiting copyrighted and trademarked products and made trafficking in counterfeit goods or services an offense under the RICO Act. Finally, Congress expanded the Federal Government's seizure authority and made it more difficult for seized goods to re-enter the marketplace.

Information Dissemination to the Public

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In FY 1996, the PTO disseminated patent and trademark information to customers through its search facilities in Arlington, Virginia, the nationwide network of Patent and Trademark Depository Libraries (PTDLs), commercial vendors, and direct sales to end users of the data. The PTO also assisted its customers through its General Information Services Division (GISD). The goals of the information dissemination program are to develop products and systems to assist current and future customers and to take advantage of new technologies and capabilities as they arise.

Public Search Facilities

In its public search facilities, the PTO provided reliable, low-cost access to:

- the Automated Patent System's Text Search and Retrieval (APS-Text),
- Classified Search and Image Retrieval (APS-CSIR), and
- the Trademark Search System (X-Search),

and free access to:

- the Trademark Reporting and Monitoring (TRAM) system,
- the Patent and Trademark Assignment Search Systems, and
- PTO CD-ROM products.

PTDL Program

Through the PTDL program, the PTO disseminates patent and trademark information and supports diverse intellectual property needs of the public. During FY 1996, the New Hampshire State Library, Concord, New Hampshire, and the Texas Tech University Library, Lubbock, Texas, were designated new PTDLs. In addition, 28 libraries across the country offered access to APS-Text for on-line patent searches.

The PTO established a PTDL business partnership with the Great Lakes Patent and Trademark Center at the Detroit Public Library to encourage new interest in intellectual property throughout the Great Lakes region, including nearby Canadian cities. This is our second partnership—the first is with the Sunnyvale, California, Center for Invention, Innovation, and Ideas, which expanded services to States on the West Coast. Designated the National Performance Review Reinvention Laboratories, the two centers participated in programs to identify and meet customer needs and to forge relationships with government agencies with related missions. A long-term goal for each is to become a full-service help center, perhaps offering government and commercial publications on patenting, marketing, and exporting inventions. Once the pilot partnerships in Sunnyvale and Detroit are evaluated and the programs are deemed successful, work will begin on establishing partnerships in other regions of the country.

PTO on the Internet

The PTO continues to use the Internet to give users around the world access to patent and trademark information products.

Our Progress

The PTO World Wide Web (WWW) site (<http://www.uspto.gov>) contains the following information about PTO products and services; PTO forms; notices of PTO rule changes, public meetings, and policy announcements; procurement documents; and links to other Intellectual Property Offices. Many products are also available on the PTO's File Transfer Protocol (ftp) site. Accesses to the PTO's WWW site average more than 30,000 per day.

The PTO now has two searchable patent databases on the WWW that are accessible through the PTO's Home Page. The first, under the AIDS Patent Project, is a collection of the full text and full images of U.S. patents related to AIDS research. The EPO, JPO, and WIPO have now joined in the project to provide their own AIDS-related patent information.

In November 1995, the PTO established a second patent database on the WWW. It offers more than 20 years of searchable patent bibliographic text at no charge to the public. The database consists of the front-page text for all patents issued since 1976. It is updated weekly and receives on average more than 45,000 successful requests per day.

PTO on CD-ROM

The PTO continues to use CD-ROM technology to provide patent and trademark information to the public. CD-ROM products contain searchable text, indexes, and search tools that are updated bimonthly and quarterly. In addition, the PTO produces a weekly patent image CD-ROM that allows electronic delivery of documents to PTDLs, other industrial property offices around the world, and the public. All CD-ROM products can be used, at no cost, in PTO public search facilities and PTDLs, and are sold to the public through annual subscription. Copies of internal databases on magnetic tape are also available.

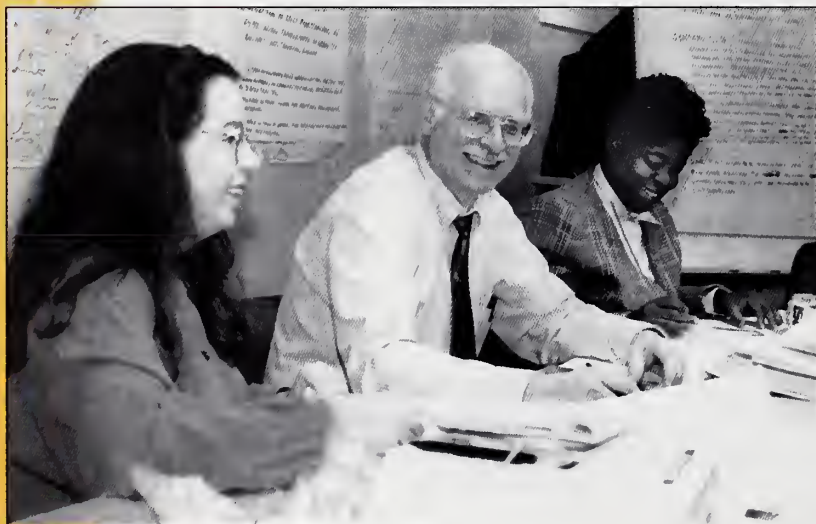
PTO Through GISD

The PTO's General Information Services Division (GISD) responds to inquiries from the public for general information about patents and trademarks. Modernization efforts allowed GISD to serve more than 520,000 customers in FY 1996 with telephone, mail, and walk-in requests. GISD can be reached toll-free at 1-800-PTO-9199, or in the Washington, DC, area at (703) 308-4357.

Enhance Human Resources

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In FY 1996, the Office of Human Resources collaborated with all other areas of the PTO to define its role in the transformation of PTO's business functions. Following is the PTO's vision for human resources management, developed to meet the needs of PTO employees and support its business areas' needs:



In the transformed PTO, human resources consist of self-motivated employees who understand their role in providing customer satisfaction and accomplishing the PTO mission. These employees are valued as key assets and customers; there is respect for the balance between work and family issues; and a learning environment is fostered to enable employees to adapt to change and excel in performance.

Human Resources Re-engineering

In March 1996, the PTO initiated a business process re-engineering effort under the Administrator for Human Resources and Public Affairs, which also includes the Office of Civil Rights. The project is examining all aspects of PTO human resources management (HRM), operations, and organizational structure for each of these offices. The goal is to support the needs of PTO's three business areas (patents, trademarks, and information dissemination), as well as all other areas of the PTO. The PTO will initiate a variety of pilot programs to explore options for delivering human resource services, including moving many operations to the business units and contracting out targeted recruitment initiatives.

In FY 1996, the Office of Human Resources (OHR) completed an analysis of current operations and began work on a Concept of Operations (ConOps), which will describe the future OHR environment and operations. In addition to the ConOps, OHR will develop an HRM Business Plan containing the schedule and plans for moving from current human resource management processes to the new re-engineered environment. A final report of this analysis is available from the Office of Human Resources. The ConOps and business plan are expected to be completed early in calendar year 1997.



The Office of Human Resources conducted a study of more than 100 private and public human resource organizations to identify the best practices of these world-class organizations. OHR also conducted a customer focus survey of all human resource functions to establish a baseline from which the office will measure its performance improvement, once re-engineering efforts are under way. Budget reductions may, however, require scaling back, postponing, or eliminating this project.

PTO University

In 1994, the PTO created PTO University to promote lifelong learning among current PTO employees. PTO University strives to meet the demands of an increasingly technological and automated workplace. Employees who participate in PTO University programs learn new skills that further their career development and contribute to PTO's competitive place in the global economy. Since FY 1995, PTO University registrations have increased by more than 40 percent; in 1996, over 1,300 employees registered for on-site classes.

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Summer intern students at orientation. The PTO placed about 70 summer interns throughout the agency.

Patent Academy

The Juris Masters Certificate Program (JMCP), a voluntary after-hours program for patent professionals, began in February 1996.

The JMCP enables patent professionals who are not attorneys to improve their legal knowledge. The program enrolled 192 students in its first year.

Quality of Work-Life

In FY 1996, the PTO opened its on-site fitness center. All PTO employees are eligible to join the fitness center for a small fee that is deducted from their paychecks. As a result, the center is nearly self-funded. The center offers state-of-the-art cardiovascular and weight-training equipment, aerobic classes, personal trainers, and much more.

In addition, the PTO's Partnership Council extended the Compensatory Time Pilot Program, which is an additional tool to help employees achieve a good balance between their work and personal lives. PTO employees continue to make use of flexible work schedules, on-site health programs, and transportation subsidies.

Community Service

The PTO continued to establish itself as a good corporate citizen and progressive employer through programs that improved education, health, and personal empowerment. These programs included Project XL, Partnership in Education, and the Lakota Project, a Native American community project in South Dakota.

Leverage Information Technologies

Customers using the patent and trademark systems expect ready access to information and the ability to interact electronically with the Office in a self-service manner. The following vision guided the Office's efforts in FY 1996 to leverage information technology:

In the transformed PTO there is an information technology environment for the Office, its international partners, and the public where patent and trademark information is created once, managed effectively and used often, and where our environment evolves over time to electronic commerce whereby most internal and external transactions are performed electronically and are accessible through the Global Information Infrastructure.

Information Technologies Vision

In the transformed PTO there is an information technology environment for the Office, its international partners, and the public where patent and trademark information is created once, managed effectively and used often, and where our environment evolves over time to electronic commerce whereby most internal and external transactions are performed electronically and are accessible through the Global Information Infrastructure.

The PTO refined its *Strategic Information Technology Plan*, publishing an update for FY 1996–2001 in December 1995. The Plan emphasizes the following areas, which are critical to leveraging information technology at the Office:

- maintain current workload production capability;
- make PTOnet robust, reliable, and scalable to meet future needs;
- make all PTO applications accessible from desktop workstations;
- expand the content of and improve access to patent and trademark search databases;
- redesign legacy systems to operate in an open systems environment;
- implement re-engineered patent and trademark business processes; and
- improve electronic information dissemination to external customers.

Budget reductions to programs funded by patent fees, however, may make it necessary to scale back, postpone, or eliminate many of these projects soon.

Patent Automation

The PTO greatly enhanced patent automation capabilities in FY 1996. Highlights appear below.

Desktop Deployment—The PTO deployed approximately 570 desktop workstations to patent examiners.

Group Printer Deployment—The PTO deployed four additional high-speed printers to patent examiners, bringing the total num-

ber of group printers available in a shared environment to 55 machines.

Patent Text Search—The PTO was linked with the premiere Scientific and Technical Network. Through this link, patent examiners are able to search critical foreign patent information. The Office's own text database was expanded to include more than 1 million EPO abstracts and about 500,000 additional JPO abstracts. The PTO also completed an evaluation of a search software prototype.

FormWriter—The PTO replaced handwritten forms with computer-generated, laser-printed forms.

Research and Development Contracts—The PTO and the Defense Advanced Research Projects Agency jointly awarded \$11 million in research and development contracts to the University of Massachusetts Center for Intelligent Information Retrieval and the San Diego Supercomputer Center. These awards will enhance the Office's ability to access and evaluate complex technical data in patent applications relating to electronic commerce.



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Trilateral Workstation Exchange—The PTO installed workstations that will allow patent examiners to conduct electronic patent searches of the EPO and JPO databases.

Trademark Automation

The PTO released the initial version of the Trademark Electronic Toolkit. The Toolkit allows access to the Trademark Reporting and Monitoring (TRAM) system and the trademark search system (X-Search) via a personal computer over the PTO computer network. It is a major improvement over the existing TRAM query process in that all information for a trademark is retrieved at once, eliminating the need to perform multiple queries.

Administrative Automation

A select number of users have received the Executive Information System, which provides critical management information to users on-line in a format appropriate to their needs. Also, the Office of Human Resources successfully implemented a paperless system for approving and tracking training forms.

Finally, the Office of Finance began processing invoices from vendors with use of an electronic imaging system that enables payments to be approved without distributing paper copies throughout the PTO. The Office of Finance processed more than 17,000 invoices.

Infrastructure

Information Systems Support Contract—The System Development and Maintenance (SDM) support

procurement seeks to acquire technical professionals to staff information system development and maintenance projects. This \$511 million acquisition is a pilot effort under the Office of Federal Procurement Policy's Past Performance Program. A request for proposals was issued in January 1996. Proposals were received in March 1996, and the PTO expects to award a contract in the spring of 1997.

PTOnet Upgrade—The PTO finished replacing its file server infrastructure with updated components, reducing server downtime from a high of 50 hours per month to around two hours per month.

Magnetic Storage—The PTO acquired 25 terabytes of magnetic storage that will be installed during FY 1997. The new magnetic storage will replace the optical storage devices now used to store patent images, support new and existing requirements such as patent image capture, access to EPO and JPO full patent images, and patent and trademark assignments.

Employ Better Processes

Private sector organizations have responded to changes resulting from a technology-based economy, increased global trade, a changing work force, and advances in information technology by right-sizing themselves. The National Performance Review suggests that government agencies follow the private sector's lead by eliminating obsolete and redundant programs and making better use of automated technologies and advanced telecommunications. The PTO has created the following vision for employing better processes:

The transformed PTO continually strives to produce and deliver products and services in a manner that is responsive to customer

Vision for Better Processes

The transformed PTO continually strives to produce and deliver products and services in a manner that is responsive to customer needs. We operate in a modern, streamlined organization to fulfill and exceed our customers' expectations and enable our employees to achieve their full potential.

needs. We operate in a modern, streamlined organization to fulfill and exceed our customers' expectations and enable our employees to achieve their full potential.

Patent Process Re-engineering

Recognizing the need to operate differently in the new global economy, the PTO is re-engineering the entire patent process. A proposed patent process was presented to and approved by PTO executives in November 1995. Budget reductions, however, may require scaling back, postponing, or eliminating this program.

Since then, more detailed discussion and analysis of the proposed re-engineering have taken place, and an annotated Concept of Operations (ConOps) was completed in November 1996. The new process parallels the principles of the Strategic Direction for Patents, which states that by 2003 the PTO will:

- reduce the PTO's processing time to 12 months or less for all inventions;
- establish fully supported and integrated industry sectors;
- receive applications and publish patents electronically;
- exceed our customers' quality expectations through the skills and empowerment of our employees; and,
- assess fees commensurate with resource utilization and customer efficiency.

The patent process of the future reflects a new vision of service to the intellectual property community. Pivotal concepts in this process are maximizing value-added activity and using cycle time (cycle time measures PTO processing time only, and does not include any waiting time caused by the

applicant) as a primary measure of success, abandoning the pendency-driven system.

A series of test projects is required for transitioning from the current to the envisioned process. FY 1996 project initiatives that will continue in FY 1997 are described below.

Examination Quality—Pilot and evaluate two major components: Coach/Counseling and Customer Involvement. We will emphasize improving the quality of the search performed by the examiner and the thoroughness of the Office action prepared by the examiner.

Industry Sectors—Determine the most efficient organizational units of the Patent Organization for processing patent applications and other service requests. The sectors, which may be correlated to industry, the marketplace, commercial endeavors, etc., will be composed of work groups that examine applications from related technologies.

Patent Assistance Center—Provide trained staff who will offer customers general and technical patent information.

Customer Feedback Cards—Develop and design a Customer Feedback Card to measure the



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level of customer satisfaction and identify areas for improvement.

Desktop Workstations—Deploy 1,600 desktop workstations that will allow examiners access to the Automated Patent System.

Patent Image Capture System—Establish processes for high-volume scanning that will enable staff to use electronic images of patent applications.

Prep-Electronic Examination Process—Patent re-engineering automation concepts in a limited electronic examination process.

Technical Support Supervisor Training—Establish training modules and programs for technical support supervisory personnel.

Individual Development Plan—Identify and address training needs and professional development activities for each employee. Create a comprehensive training program. Monitor the progress of employees toward developmental goals.

Industry Sectors

The PTO has initiated a major structural reorganization—the move to industry sectors. Through industry sectors, resources applied to patent applications can be customized to meet the unique requirements of various customer bases. To improve customer service, components of the patent application processing pipeline will be integrated with the functions traditionally performed in the examining groups. The economies of scale of industry sectors will enable scarce resources to be used most efficiently. Each industry sector will act as a platform for future patent re-engineering initiatives, which can be tailored to the needs of the sector's customer community.

Patent Pre-examination Pilot Review

In December 1995, the PTO initiated the Patent Pre-Exam Process Improvement Project to identify and implement short-term improvements in the processing cycle time. This project was an early step in bringing the current processes closer to the re-engineered solution as documented in the Patent ConOps.

In January 1996, a sample of pending documents in the Office of Initial Patent Examination (OIPE) was reviewed to establish baseline cycle times for application and fee processing. Teams were created to identify problems with the current processes, facilities, technology, and people/organization. By March 1996, the teams had identified short-term solutions to those problems.

Solutions included modified designs of the workflow, cross-training of employees, elimination of redundant tasks, using technology to eliminate several manual processes, and



Larry Goffney and Vonda Gale cut the ribbon to launch the Design Industry Sector Pilot Program.

reducing the number of processing queues by combining functions through automation. The improvements were implemented in a pilot that began in July 1996.

Pilot development was coordinated with acquiring and configuring an image capture system. The pilot also incorporated improved internal tracking mechanisms for collecting performance measurements and for providing enhanced management review and control.

Results of the pilot indicate a reduction in pre-examination application processing time, improved fee processing, and reduced time to match time-sensitive correspondence to applications throughout the PTO. The image capture system prototype successfully endorses application papers with serial numbers and dates and is close to moving from testing to a production system to capture patent application images.

Trademark Re-engineering

To respond to the rapid growth in the number of trademark applications received by the PTO since the late 1980s, the PTO has developed a vision of its optimum business environment. This vision emphasizes process restructuring and information technology to achieve large improvements in productivity and customer satisfaction.

The PTO eventually hopes to encourage all applicants who can do so to do business using electronic filing and e-mail. In exchange, applicants will receive substantially improved customer service and quality, and the entire process will work more quickly. The PTO should be able to handle the rapidly increasing number of trademark applications with minimal increases in cost to future applicants and registrants once improvements are in place.

The PTO initiated numerous projects in 1996 that will continue through 1997. Four of these projects have the greatest opportunity to improve production and reduce pendency. Implementation of these four projects is a high priority for trademark re-engineering:

1. *Developing the ability to prepare full in-house camera-ready text and images of the Trademark Official Gazette (TMOG) and print registration certificates*—The transfer of TMOG materials electronically to the Government Printing Office (GPO) will speed up a process that now requires taking drawing pages from files weekly to create camera-ready copies needed to produce the TMOG and registration certificates. The new process, which will allow for printing certificates inside the Office as needed, will benefit a number of Office functions and improve customer service by eliminating the delays caused by submitting requests to GPO.
2. *Personal Computer (PC)-based data entry/text editing, including bar code capabilities to update TRAM from a PC*—All data entry and transactions are now limited to dedicated terminals that cannot be replaced or expanded. Data entry from new applications is limited to 15 dedicated terminals. Improvements are needed to facilitate accurate data entry and text editing features. Expanded access to TRAM from a PC for status information became available in 1996.
3. *Scanning paper to capture data and images through Optical Character Recognition (OCR) technology*—The initial focus will be on learning to use OCR to retrieve documents; this process is dependent on the success of TRAM enhancements.
4. *Scanning of incoming documents (drawings first, followed by applications and other*

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materials)—The process would allow for records management of scanned documents and distributed printing capabilities, with the goal of eliminating paper. Scanned drawings will be used to establish processes and pilot the concept. Eventually, applications would be received in electronic format through the Trademark Electronic Data Interchange (TEDI). This project's completion will allow for full implementation of electronic filing.

Procurement Re-engineering

The PTO participated in two Department-wide re-engineering projects. The first covers the acquisition process for contract awards greater than \$100,000 in value. This project's initial effort focused upon envisioning a new environment with drastically reduced cycle time, improved customer satisfaction, streamlined reviews and approvals, reduced risk, and improved project management. Six pilot teams, three at PTO and three at the Bureau of the Census, tested the concepts independently. Performance goals have been identified and an independent evaluation team has

been established to assess overall program benefits.

The other re-engineering project covers simplified acquisitions under \$100,000 in value. A multidisciplinary team representative of Department bureaus formulated a new target environment. The team completed its work in August and will begin operational testing once the software for the Commerce Acquisition and Management System procurement module is ready.

PTO Reorganization

In December 1995, the PTO made several additional organizational changes, including establishing the position of a Deputy Administrator for Legislative and International Affairs; consolidating the Offices of Human Resources, Civil Rights, and Public Affairs under an administrator reporting to the Associate Commissioner; transferring the Office of Computer and Telecommunication Operations to the Chief Information Officer; and realigning functions between the Deputy Assistant Commissioner for Patents and the Deputy Assistant Commissioner for Patent Policy and Projects. These changes further streamline management responsibility and provide a flatter and more customer-focused grouping of functions throughout the Office.

Effectively Manage Resources

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To maintain and strengthen the viability and soundness of the PTO's financial position and meet the challenges of implementing new government financial management laws (e.g., the Government Performance and Results Act, the Chief Financial Officers Act, and others), the PTO has placed more emphasis on the effective and efficient use of its resources. The PTO's strategy to improve current resource management is to conduct internal evaluations, benchmark the best in business, adopt best practices, eliminate non-valued-added processes, and conduct periodic evaluations. The following is the PTO's vision for effectively managing resources:

The transformed PTO is a performance-oriented organization where managers and employees are empowered and held responsible for making efficient and cost-effective decisions, where innovation and risk-taking are

Resource Management Vision

The transformed PTO is a performance-oriented organization where managers and employees are empowered and held responsible for making efficient and cost-effective decisions, where innovation and risk-taking are fostered, and where a strategic, comprehensive, and integrated approach to planning and resource management is in place.

fostered, and where a strategic, comprehensive, and integrated approach to planning and resource management is in place.

Budget reductions to programs funded by patent fees, however, may soon require scaling back, postponing, or eliminating many of the programs implementing this vision.

Fee-Restructuring Study

The PTO began developing cost calculations for PTO current and future products and services. This comprehensive effort, which will continue throughout FY 1997, will result in the development of unit cost models by the end of FY 1997 for products and services of each PTO business area that meets Federal accounting standards. In FY 1996, a limited number of analyses of workloads were in progress that will support future pricing decisions, but much work needs to be done.

The fee restructuring study took advantage of several opportunities in FY 1996 to present customer groups with information on the study and to obtain initial feedback on some fee-setting concepts under consideration. Numerous organizations that represent small inventors also were informally contacted, given general information on the effort, and encouraged to share this information with their members. As additional cost and pricing research data are developed in FY 1997, further communication between the PTO and its customers will be necessary to evaluate how well different fee-setting options meet their needs.

Streamlined Planning, Budget, and Evaluation (PBE) Process

In 1996, the Office continued to implement the redesigned model for the planning, bud-

get, and evaluation (PBE) process that was initiated in FY 1995. The redesigned PBE process is viewed as an integrated, seamless process with a single product. This product, the Corporate Plan, is tailored to meet the requirements of PTO customers, the Administration, and the Congress for planning, budget, and evaluation products. When fully implemented, the comprehensive Corporate Plan will replace our traditional planning and budget documents, although mandatory control documents will continue to be developed as needed.

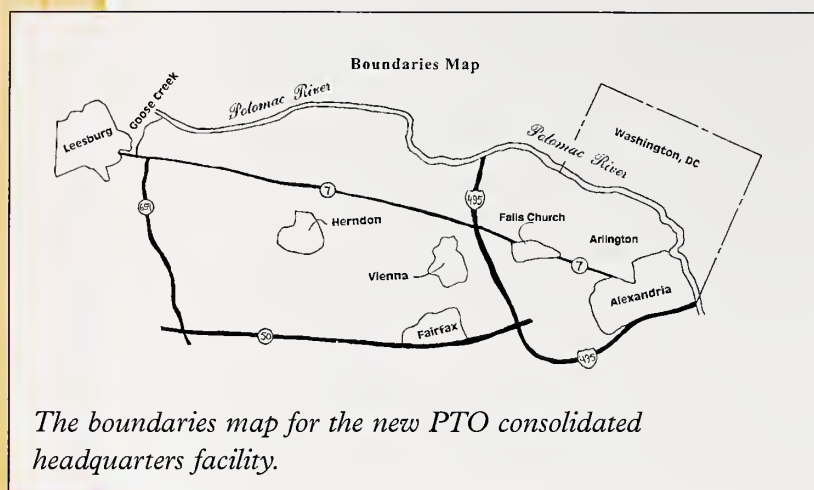
In FY 1996, PTO Corporate Plan submissions replaced our traditional budget submissions for the Department and the Office of Management and Budget (OMB). Full implementation of the PBE process will take place over several years and will be closely tied to other change projects taking place in patents, trademarks, human resources, and other areas.

Facilities Acquisition

The PTO's leases in Crystal City began to expire in FY 1996, and others will expire in FY 1997. The PTO has developed a facilities acquisition strategy to acquire new leased space or renovate existing space in order to improve and consolidate facilities, allow for more efficient use of PTO resources, and permit greater flexibility in meeting the PTO's needs in FY 2002 and beyond. Federal regulations require full competition for new leases. Therefore, the PTO has extended certain of these leases and will acquire additional space in our present location to allow both for complete competition for the new leases as well as time for building or renovation.

The PTO and GSA worked together in FY 1996 to outline the PTO's needs in a space prospectus. A Solicitation for Offers (SFO) was issued on June 26, 1996. Each potential

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offeror met with GSA/PTO to discuss the SFO. Under an amendment issued on October 1, 1996, offers for Phase I of the competition will be due by the end of the first quarter of FY 1997. The five best offerors will be selected, and the Phase II request will be issued in the second quarter of FY 1997. Offers for Phase II will be due in the fourth quarter of FY 1997, and a lease will be awarded in the fourth quarter of FY 1998. The earliest date PTO will occupy the new space will be in FY 2002.

Transformational Efforts

Transformational efforts in FY 1996 included business process re-engineering of human resource management, resource management, the acquisition process, and the patent and trademark processes. To prepare for implementation of these major changes, the PTO split operational activities from transformational activities, forming teams of transformational and operational leaders. Operational leaders were responsible for maintaining current operations and for preparing for the implementation of the redesigned processes. Transformational leaders were responsible for test-piloting the redesigned processes and for developing performance measures and critical success factors that will be used to assess the

benefits of the redesigns. They were also responsible for developing implementation plans and for the final implementation of the redesigned processes.

Promote Awareness and Encourage Creativity

The Office of Public Affairs continued to expand its informational and educational efforts at the PTO. Public Affairs began several new initiatives, and refined and improved existing programs, as described below.

The Patent and Trademark Museum—During FY 1996, the museum took on a new look and installed two new periodic exhibits. “The Bicycle: A Century of Technology” celebrated the evolution of the bicycle from a vehicle for the rich to an established method of transportation and exercise around the world. An exhibit entitled “1946” commemorated the 50th anniversary of the passage of the Lanham Act, the foundation of modern trademark law. In addition, permanent exhibits were consolidated and updated.

American Innovator Award—The American Innovator Award was established to recognize the vital role inventors play in America. This year’s recipients, all 1995 inductees into the National Inventors Hall of Fame, were: Dr. Forrest Bird, inventor of the respirator; Dr. Joseph H. Burckhalter and Dr. Robert J. Siewald, inventors of the process of identifying antigens to diagnose infectious diseases; Stephanie Kwolek, inventor of Kevlar; Dr. Waldo L. Semon, inventor of PVC (and also bubble gum); and Drs. Robert D. Maurer, Donald B. Keck, and Peter C. Schultz, inventors of fiber optic wire. In honor of the late Commerce Secretary, this award was renamed the Ronald H. Brown American Innovator Award.

Trademark Expo—The 13th annual Trademark Expo was held at the Andrew J. Mellon Auditorium in Washington, DC, in October 1995. Once again, thousands of visitors enjoyed their favorite trademark characters along with historical and educational exhibits tracing the trademark story throughout history.

Project XL—Educators and students continued to look to Project XL, the PTO's educational outreach program, to inspire ingenuity and creativity. In addition to exhibiting at annual conferences and conducting workshops for teachers, Project XL worked with the National Inventive Thinking Association and the Copyright Office on the popular Young Inventors and Creators Program.

National Inventors Hall of Fame—The PTO continued to work closely with and support the National Inventors Hall of Fame and Inventure Place in FY 1996. The PTO again provided financial and human resources for the annual induction ceremony. In addition, the PTO signed an agreement to jointly produce a 10-part radio series entitled "Discover the Inventor in You" for National Public Radio.

Performance Measurement

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In FY 1996, the PTO maintained its commitment to early implementation of the Government Performance and Results Act (GPRA) to strengthen its performance measurement (PM) system. The PTO views a strong PM system as a crucial management tool for improving agency performance. During the year, the PTO integrated PM activities with all process improvements and redesigns and began each of these efforts by establishing a mechanism to integrate customers' and stakeholders' input and concerns.

The PTO, like most Federal agencies, has an abundance of performance measures that focus on finances, inputs, and outputs. The PTO directed its business area managers to design goals and indicators to monitor performance from many perspectives (quality, efficiency, effectiveness, customer and employee satisfaction, and innovation). The most challenging effort has been the creation of outcome- and results-oriented goals and indicators that determine if the PTO is performing efficiently, is providing the best return to its investors, and is addressing the needs and concerns of its customers and stakeholders.

From late August 1995 through November 1996, the PTO trained an additional 40 senior, staff, and line managers, increasing the number of senior and mid-level managers trained in-house in GPRA and PM to more than 190. The PTO will re-examine the proposed performance goals, listed below, during FY 1997 to ensure that each provides the best reflection of the PTO's progress toward its vision, mission, and strategic agenda.

Performance Goals and Measures

Two important performance goals of PTO policy are to support the economic infrastructure of the United States through the promotion and protection of intellectual property rights in the United States and to expand intellectual property rights systems abroad. The performance measure for this goal is the frequency of exchange of information with foreign countries' intellectual property offices.

Two important patent performance goals are to grant exclusive rights, for limited times, to inventors for their discoveries and to provide service to customers. Performance measures

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include the following: the percentage of patent holders who have paid maintenance fees (first stage, second stage, and third stage), the overall index of customer satisfaction, the number of weighted applications disposed per FTE adjusted for each fiscal year, the unit cost of weighted applications disposed, the number of total applications disposed per year, the number of patents issued per year, the average cycle time of applications, the rate of customer confidence in the accuracy of the decision (customer survey), the overall index of employee satisfaction from the Culture Survey (11 categories), improving employees' skills, and the number of process changes.

The primary trademark performance goal is to enhance trademark protection. This goal is intended to address the outcome or benefits of the trademark registration process. The performance goal will direct the trademark planning and budget process and ultimately the way we conduct business. Performance measures include increases in the number of applications filed, the number of trademark disposals per Full-Time Equivalent (FTE),

the unit cost of trademark disposals, pendency, and the percentage of files that achieve the Trademark Office's pendency goals.

The primary information dissemination performance goal is to promote awareness of, and provide access to, patent and trademark information. Performance measures include the percentage increase in customers served, the overall index of customer evaluation of ease of access/effectiveness, the overall index of customer satisfaction, the unit cost of key products and services, the percentage of key products meeting published time standards, the percentage of key products filed accurately, and the overall index of employee satisfaction from the Culture Survey.

Baseline data are available for only a few of these business measures. We anticipate that most of the performance information will be available before FY 1999. Once available and validated, this information will help the agency to direct resources appropriately to achieve our goals and mission.

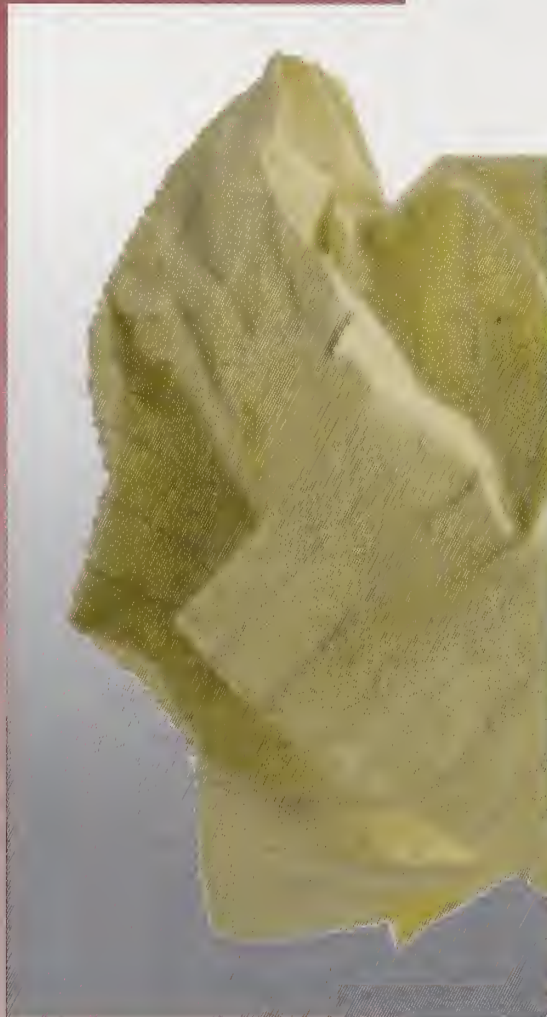


The Patent and Trademark Office issues the 2 millionth trademark to Body Wise.

Support for the Department of Commerce Mission

In FY 1996, the Department of Commerce (DOC) articulated its overall approach to promote job creation, economic growth, sustainable development, and improved living standards for all Americans through its mission statement and three strategic themes in a strategic plan. The PTO supports the DOC mission and contributes to DOC's strategic themes by:

- leading the development of intellectual property policy in order to open and expand foreign markets and increase U.S. exports;
- strengthening the intellectual property rights system and disseminating patent and trademark information effectively; and
- administering the laws relating to patents and trademarks; advising the Secretary of Commerce, the President, and the Administration on patent, trademark, and copyright protection; and advising the Secretary of Commerce, the President, and the Administration on trade-related aspects of intellectual property.



The Year Ahead



The Year Ahead

Critical Areas for Financial and Management Improvement

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The PTO continued to address the following critical areas for financial and management improvement in FY 1996:

- restrictions in the number of PTO employees;
- continued withholding of funds by Congress;
- proposals to make the PTO a wholly owned government corporation; and
- re-engineering projects.

Personnel Ceilings

The PTO continues to be challenged by personnel ceilings set at levels below those required to attain production and customer service goals. Pendency and inventory are rising in patents and trademarks as growth in incoming work has exceeded the growth in staff needed to address this work. The PTO has responded to this challenge by contracting work where possible in the short term and re-engineering processes in the long term. The PTO will continue to seek personnel levels commensurate with customer demand for our services.

Withholding of PTO Funds

The enactment of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) put the PTO on path to be funded entirely through sales of its products and services. This was accomplished by increasing patent fees by 69 percent, followed by a smaller subsequent increase. This 69 percent increase was a surcharge to be deposited to a specific Treasury account. Subsequent legislation removed the specific percentage but required the PTO to deposit exact dollar amounts of surcharges. By law, these deposits are scheduled to continue through FY 1998.

Because of declining funds allotted to House and Senate appropriations subcommittees, the subcommittees have not appropriated the full amount of the surcharge back to the PTO. An increasing amount of the surcharge has been withheld since FY 1992. To date, \$141.5 million has been withheld. Of our FY 1997 surcharge deposit of \$115 million, congressional committees withheld nearly \$54 million, which is more than 46 percent of our deposited amount. The following table shows the amounts that have been withheld to date and scheduled deposits through FY 1998:

(dollar amounts in thousands)						
<i>Fiscal Year</i>	<i>Surcharge Deposit</i>	<i>Surcharge Appn.</i>	<i>Surcharge Withheld</i>	<i>Cumulative Withheld</i>	<i>Annual Variance (%)</i>	<i>Cumulative Variance (%)</i>
1991	\$99,307	\$99,307	\$0	\$0	0.00	0.00
1992	95,000	86,894	8,106	8,106	8.53	4.17
1993	99,000	86,672	12,328	20,434	12.45	6.97
1994	103,000	88,329	14,671	35,105	14.24	8.86
1995	107,000	83,000*	24,000	59,105	22.43	11.74
1996	111,000	82,324	28,676	87,781	25.83	14.29
1997	115,000	\$61,252	\$53,748	\$141,529	46.74	19.41
1998	\$119,000	(na)	(na)	(na)	(na)	(na)

* PTO's FY 1995 appropriation was further reduced by a rescission of \$195,000 and procurement savings of \$676,000—the final appropriation was \$82,129,000.

(na) not available.

(Note: Numbers in italics indicate deposits required by P. L. 103-66 for FY 1996-1998.)

Corporation Proposals

Various proposals were introduced in Congress during FY 1996 to transform the PTO into a performance-based, wholly owned government corporation. All of these proposals would result in a more commercial entity that could provide more flexible service to its customers. Potential flexibilities as a government corporation include borrowing authority, investment authority, relief from personnel ceilings, and exemption from certain Federal building regulations. While action was not completed on these bills, the PTO intends to work toward reintroduction of the Administration's proposal in FY 1997.

Re-engineering Projects

Re-engineering efforts are under way in both patent examination and trademark examination. The focus of these projects is to deliver to customers a re-engineered process that meets their business needs, in terms of both cost and service. Transition planning in these projects will continue in FY 1997. The movement from our current processes to our re-engineered processes will involve significant one-time development and transition costs. These costs will be an investment in our infrastructure, primarily in automation, that will pay long-term benefits to agency customers. Benefits from the re-engineered processes will be realized over time, resulting in shorter processing times and a more responsive system despite continued growth in workload. When fully implemented, the PTO should realize significant long-term cost savings. Budget reductions in areas funded by patent fees, however, may force scaling back, postponing, or eliminating many of these programs.

The Year Ahead

- Congress will again consider significant intellectual property legislation, including bills to: recast the Patent and Trademark Office as a performance-based, wholly owned government corporation under the policy direction of the Secretary of Commerce; make important patent law reforms such as early publication of patent applications and improvement of re-examination procedures; and ensure copyright protection for works transmitted over the National Information Infrastructure.
- The Conference on Fair Use (CONFU), convened by the Working Group on Intellectual Property Rights, will bring together copyright owner and user interests to discuss fair use issues and, if warranted and feasible, to develop guidelines for uses of copyrighted works by librarians and educators.
- The PTO will continue to be an active participant in a variety of international multilateral and bilateral activities, with



Bob Anderson leading a customer focus session.

The Year Ahead

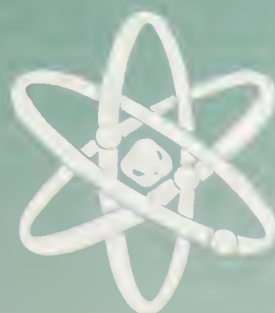
the goal of securing and expanding protection of U.S. intellectual property.

- The PTO will hold hearings and solicit public comments on Internet domain name registration policies to assess the public's views on what is considered essential to reduce the legal liabilities and conflicts between the use of domain names and trademarks and to determine the role, if any, for the PTO.
- During FY 1997, the PTO expects to receive approximately 212,000 patent application filings, and to receive trademark application filings for more than 218,000 classes.
- The Trademark Office has begun work on the first phase of 53 transition projects that will result in a re-engineered trademark process. Phase I consists of 35 projects that will result in enhancements to existing information systems as well as the development of policies, procedures, personnel, and functional technology requirements to be used in building and implementing the future Trademark Information System. Significant changes, expected to be in place by the end of the year, will streamline the processing of new applications and the publication and printing of registered marks.
- The Trademark Office worked in conjunction with the National Institute of Standards and Technology to implement requirements of the Fastener Quality Act (P.L. 101-592). The PTO will begin receiving and processing requests filed under the Act, which requires recordation of the insignia of manufacturers and private label distributors to ensure the traceability of a fastener to its manufacturer or private label distributor.
- Eighteen trademark examining attorneys will begin working from home two days a week as the Trademark Flexiplace Pilot program is implemented. The results of the pilot will be evaluated during the next two years.





Financial Review



Financial Review

Message from the Chief Financial Officer

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Fiscal year 1996 was a productive time for the Patent and Trademark Office. Revenues climbed to over \$621 million as we continued to supply quality products and services to hundreds of thousands of customers. Moving through the new fiscal year, we find ourselves managing myriad changes to meet increasing global challenges, while remaining steadfast in our commitment to provide our customers with the highest level of quality and service.

Our financial management organization represents a solid team of professionals who are dedicated to full accountability and sound management practices. As a result, our financial management organization has made significant advances throughout this fiscal year. Most significantly, we began to re-engineer our resource management processes, which will facilitate our transition to a performance-based organization. Key to this transition is early implementation of the Government Performance and Results Act (GPRA), which we began in earnest this year. The GPRA requires that we establish a performance measurement system that integrates the budget process and functional programs with our strategic planning and goals and provides periodic measurement of our progress in reaching those goals. A number of these measures appear throughout this report.

During fiscal year 1996, we also saw improvements in our technological capabilities as financial management system modifications were initiated to enhance the property subsystem, the procurement subsystem, the travel subsystem, and the budget formulation and allocation modules. We are on course to realizing my goal of a fully integrated financial management system that provides accurate, timely, and accessible information.

As Chief Financial Officer, I am resolute in providing effective management and stewardship of our resources and assets to ensure sustainable economic opportunities. Our fiscal year 1996 financial statements have demonstrated this commitment by earning an unqualified opinion from the Office of Inspector General for the Department of Commerce. These financial statements include the Statement of Financial Position, the Statement of Operations and Changes in Net Position, and the Statement of Cash Flows. These statements reveal that our assets grew 25 percent during fiscal year 1996, rising from \$467 million to \$586 million, while liabilities increased at a rate of 29 percent, increasing from \$293 million to \$377 million. Further, these statements demonstrate our stewardship as we realized a 17 percent return on our equity during the year, despite a 49 percent increase in the revenue withheld account. Last, these statements show that \$103 million was provided from net cash flows for operating, capital investing, and financing activities.



Bradford R. Huther
Associate Commissioner and Chief Financial Officer

Financial Review

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Fiscal year (FY) 1996 was a landmark year for Federal financial management, as agencies throughout the government strive to fulfill the requirement of producing auditable FY 1996 financial statements in compliance with the Chief Financial Officers Act of 1990 (CFO Act), as amended by the Government Management Reform Act of 1994 (GMRA). The PTO has been at the forefront in implementing Federal financial management reform. Indeed, this is the fifth year we have provided our customers and stakeholders a set of financial statements. These statements have been compiled in accordance with guidance issued by the Office of Management and Budget (OMB) and supplementary guidance provided by the Department of Commerce (DOC). The DOC Office of Inspector General (OIG) audited the three FY 1996 statements: the Statement of Financial Position, the Statement of Operations and Changes in Net Position, and the Statement of Cash Flows. As it did in FY 1994 and FY 1995, the PTO has received an unqualified opinion on these financial statements. In the Inspector General's Report on Internal Control Structure, the OIG made recommendations for improving internal controls and promoting operating efficiencies. Actions have been initiated by PTO management to implement these recommendations.

The PTO is also moving forward with early implementation of the Government Performance and Results Act (GPRA). GPRA is the primary legislative framework through which agencies will be required to set strategic goals, measure performance, and report on the degree to which goals are met. The PTO is committed to developing and implementing a strong performance measurement system that supports our strategy and enhances our customer focus while providing

us with the metrics necessary to sustain continuous improvement in the services and products we deliver. Moreover, we are progressing toward becoming a performance-based organization and are working to incorporate performance budgeting in our resource allocation processes. In assisting management in moving toward a performance-based operation, the PTO undertook several initiatives in FY 1996 in the areas of cost accountability, fee structuring, data warehousing, and service standards integration.

Regrettably, the outlook for FY 1997 is not as bright as we would wish. The Omnibus Consolidated Appropriations Act mandates a revenue withhold of \$53.7 million for FY 1997. A restriction of this magnitude will delay implementation of many of our initiatives. Activities related to improving business processes will be cut by \$30 million. There will be further delays in the purchase of important software and hardware enhancements for improving the patent search process, and training programs designed to increase the quality of examinations will be eliminated. Additionally, the number of new patent examiners hired to help reduce the rising backlog in patent applications will be cut in half, creating further delays in the pendency process. Also, information technology projects will be decremented \$20 million, impeding the PTO's progress in moving to a performance-based organization. The remainder of the \$53.7 million cut will be applied across the board as a 5 percent reduction to already lean administrative staffs. Together, these cuts will negatively affect the business operations of the PTO and further deprive our customers of the quality of services for which their fees are intended.

Financial Review

Redirection of PTO Funds

The Omnibus Budget and Reconciliation Act of 1990, as amended in 1993, provided for a 69 percent increase in statutory fees to allow the PTO to become fully funded by its customers through the collection of user fees. This customer fee increase was initially collected by the PTO and placed in a special account in the U.S. Treasury. Although the fees were collected by the PTO, the use of the funds was controlled by Congress, and thus budget authority had to be appropriated in order for the PTO to use the fees. Subsequent legislation removed the fee percentage requirement, but still requires the PTO to deposit specified amounts of fees into the special account. During FY 1996, the PTO collected and deposited \$111 million in customer fees into the special account. Congress provided budget authority for the PTO to spend \$82 million, with \$29 million remaining in the Treasury account. Although the cumulative amount of the withheld fees appears on our Statement of Financial Position, it is a restricted account and the

PTO has not been given the authority to use them. Instead, the budget authority equivalent to the amount of the withheld fees has been redirected each year to other government programs.

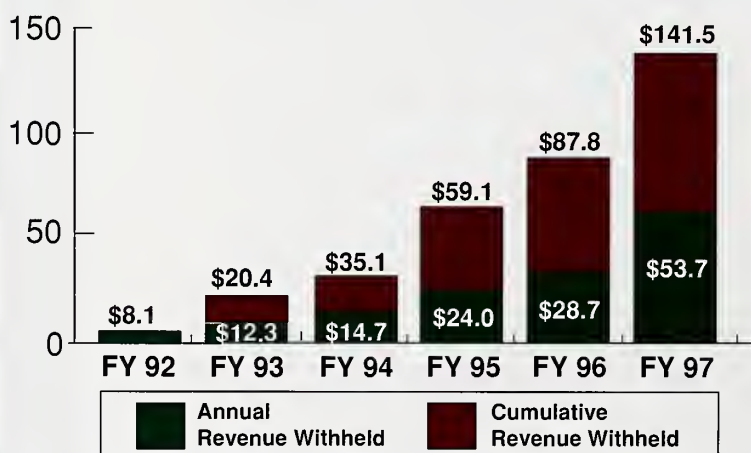
Since FY 1992, Congress has continued to withhold increasing amounts of PTO customer fees. Initially, the amounts withheld were small compared with PTO revenues in total. They ranged from \$8.1 million in FY 1992 to \$28.7 million in FY 1996. PTO was able to absorb these revenue restrictions in its operating budget with controlled adverse effects on programs. Indeed, the annual amount of fees withheld has risen more than 254 percent since FY 1992, and the cumulative total of fees collected by, but unavailable to, the PTO as of the end of FY 1996 was \$87.8 million. In FY 1997, the customer fees withheld will almost double, rising from \$28.7 million to \$53.7 million.

This revenue restriction of \$53.7 million can be absorbed only in the operating budget of the PTO. For FY 1997, the cumulative amount of fees withheld will reach \$141.5 million according to current appropriations and apportionment schedules. By law, these restrictions are scheduled to continue through FY 1998 and will be available to the PTO only through the appropriations process.

If, in FY 1998, the PTO were to experience an even larger withholding of its fee revenue, it would reduce the PTO's ability to pay for any service except basic compensation of employees and necessary support services. Future upgrades or investments in information technology would be inhibited.

With a reduction in overtime for examination and the reduction in examiner hiring, patent

Trends in Annual and Cumulative Revenue Withheld
 \$\$ in millions



Between FY 1992 and FY 1996, the annual revenue withheld increased 254%.

pendency would continue to rise. Those familiar with the patent process understand that the full cost of examining a patent is not recovered through the payment of the initial fee. The cost of examining and issuing a patent is paid for in an elongated revenue stream that begins with the application fee and continues through the issue date, in the form of the issue fee, and well past the date of issue in the form of maintenance fees. Less profitable patents are allowed to expire by their owners; more successful and profitable patents are kept in force through the payment of maintenance fees at three years, seven years, and 11 years after issue. These maintenance fees paid on profitable patents are used to cover the costs of newly received patent applications, as the application fee alone does not recover the full cost of examination.

However, both issue fees and maintenance fees are time sensitive (i.e., they are both dependent upon pendency or the time it takes to examine and prepare a patent for issue). For example, if the pendency time were to increase from 18 months to 20 months to 22 months, the revenue stream for the PTO would become elongated. Immediately, less issue fee revenue would be available to support the patent process. Eventually, the impact would be felt on maintenance fee income and this would continue to have an effect for up to 11 years. There would be no "quick fix" for this lengthened revenue stream.

Allocation of Cash and Fund Balances

User fees are the source of all revenues earned by the PTO. Patent and trademark rights, grants, registrations, and related products and services are sold to the public for fees assessed. As the demand for PTO

products and services has increased, fee collections have continued to climb, with a concurrent increase in the amount of work waiting to be processed and in process. In turn, this increase in workload has given rise to an increase in deferred revenues that has resulted in large year-end balances in the Fund Balance with Treasury and Cash accounts. Although the balances in these accounts may appear substantial, it must be remembered that the PTO, while operating as a fully customer fee-funded operation, is still an entity of the U.S. Government, subject to Federal appropriations law, and is not authorized to invest its cash and fund balances.

While the PTO prepares and publishes financial statements in accordance with the CFO Act requirements, it still operates on the cash basis required by appropriations law. The PTO has no investment authority, no borrowing authority, and no lines of credit. In order for the PTO to spend \$1.00, it must have collected or anticipate the collection of that dollar in the same fiscal year. For the PTO to enter into a contract for \$5 million worth of services, it must have collected or anticipate the collection of \$5 million in fees during the fiscal year. By the end of the fiscal year, there must be collected fees in the Fund Balance with Treasury and Cash accounts to cover all outstanding obligations. However, under the generally accepted accounting and reporting requirements, these obligations, or outstanding contracts, do not appear on the financial statements. These are only referenced in the footnotes to the statements.

Unobligated balances of total funds available to the PTO amounted to only \$27.0 million at the end of FY 1996. This is only a small percentage of the Fund Balance account with the U.S. Treasury. The nature of the CFO financial statements, if interpreted as a cash-basis, appropriated government entity, can

Financial Review

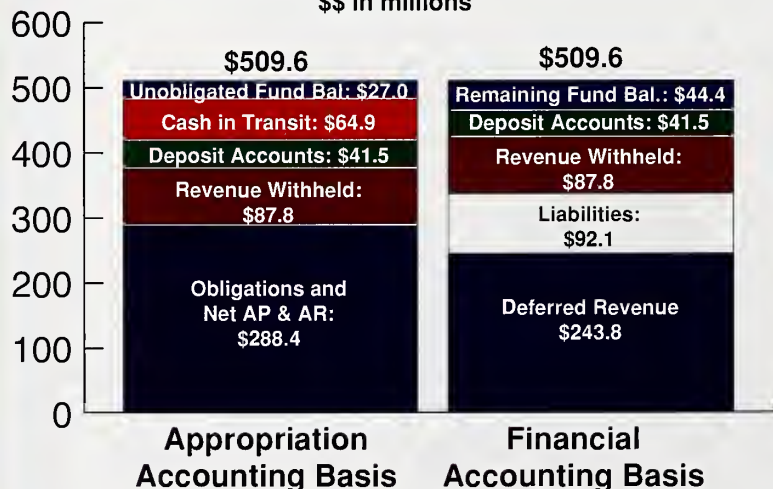
lead to the conclusion that the PTO's fund balances are funds available for obligation, rather than funds that have already been obligated and will be required to liquidate outstanding contractual liabilities. No private enterprise would keep such large fund balances on hand; rather, fund balances would be invested. However, the PTO is not a private enterprise; it is a government entity that has no choice but to present large fund balances on its financial statements.

The chart below demonstrates the differences between accounting for fund balances on an appropriations accounting basis used in the budgeting process and a financial accounting basis as reported under the requirements of the CFO Act. The appropriations accounting basis shows that once all fund balances are allocated to cover Obligations and net Accounts Payable and Accounts Receivable, Cash In Transit, Deposit Accounts, and Revenue Withheld, only \$27 million in unobligated funds remains. Of this amount, \$26.1 million is in unobligated advance fees in excess of the amount that the PTO had

authority to use, and \$0.9 million is reserved pending resolution of a restricted funds rescission. The Cash in Transit of \$64.9 million represents undeposited checks as of September 30, 1996. The Deposit Accounts of \$41.5 million are monies paid to the PTO for future services. Revenue Withheld of \$87.8 million is the cumulative revenue withheld since 1992, which is unavailable for the PTO's use until appropriated by Congress. Last, Obligations and net Accounts Payable and Accounts Receivable represent the total of undelivered orders, net of Accounts Payable and Accounts Receivable as of September 30, 1996.

From a financial accounting basis, the Remaining Fund Balance of \$44.4 million represents the cumulative margin since establishment of the PTO. The Deposit Accounts of \$41.5 million are monies paid to the PTO for future services. Revenue Withheld of \$87.8 million is the cumulative revenue withheld since 1992, which is unavailable for the PTO's use until appropriated by Congress. Liabilities consist of \$48.3 million in Accounts Payable, Accrued Payroll and Benefits of \$22.9 million, the Other Liability Due to Treasury of \$0.9 million, and the Actuarial and Leave Liabilities of \$20 million, representing annual leave owed to PTO employees and the PTO's portion of the Federal Employee Compensation Act for its employees. Finally, Deferred Revenue of \$243.8 million represents undeposited checks at year end and fees received for services, but not fully earned as of September 30, 1996.

Claims Against Fund Balance with Treasury
\$ in millions



The majority of PTO funds at year-end are earmarked to cover obligations and restrictions.

Allocation of Net Position

In the aggregate, the various components of the Net Position section on the Statement of Financial Position are also referred to as "equity." Equity is the residual interest in the

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NET POSITION (\$000)			
Balances	FY 1994*	FY 1995	FY 1996
Unexpended Appropriations	-	-	-
Invested Capital	\$ 8,328	\$ 6,157	\$ 3,876
Cumulative Results of Operations	58,749	108,962	116,554
Other - Revenue Withheld	35,105	59,105	87,781
Future Funding Requirements	-	-	-
Total Net Position	\$102,182	\$174,224	\$208,211

**FY 1994 restated to reflect change in presentation for Future Funding Requirements.*

assets of the entity that remains after deducting its liabilities. Components of the PTO's Net Position for the most recent three years are shown above. The Total Net Position increase of \$34.0 million from FY 1995 to FY 1996 includes \$28.7 million that is not available for the PTO's use because it has not been granted the budget authority to access it.

For FY 1994 through FY 1996, the PTO had no Unexpended Appropriations or Future Funding Requirements. However, before FY 1995, the PTO reported a Future Funding Requirement for the noncurrent portion of the liability for employee leave and capital leases. This presentation was changed in FY 1995, and the FY 1994 financial statements were restated. Thus, for financial statement reporting purposes, the PTO reports the noncurrent portion of the employee leave liability as a liability covered by budgetary resources, as long as there are sufficient resources available. Also, because PTO is no longer funded from an annual appropriation, the balance in the Invested Capital (an appropriated fund account) will decrease each year by the amount of depreciation associated with the respective capital accounts, eventually zeroing out.

The Cumulative Results of Operations (CRO) represents the cumulative unrestricted net operating gain recognized by the entity since its inception. The CRO increases or decreases each year by the amount on the line of the Statement of Operations and Changes in Net Position titled "Excess of Revenues and Financing Sources Over Total Expenses." This line represents the difference between (1) revenues and financing sources and (2) expenses. However, in practice, not all of that line is allocated to the CRO. Instead, a portion of the amount is diverted each year into a restricted revenue withheld account at Treasury. These fee collections are used by Congress to offset increased spending in other Federal programs, which reduces the PTO's budget authority and restricts its ability to spend all of its customers' fees to accomplish patent work.

As of the end of FY 1996, the PTO's CRO was \$116.5 million. Thus, of the total assets presented on the PTO's Statement of Financial Position, the government's interest consists of net property and equipment (P&E), as there are no outstanding liens against any of these assets. P&E appears on the balance sheet in the amount of \$71.4 million; however, \$3.9 million of the P&E was

Financial Review

purchased with appropriated funds and appears on the Invested Capital line, leaving \$67.5 million in P&E in which the PTO's CRO has an interest. The Accounts Receivable of \$4.6 million also represents a portion of the PTO's CRO. The remaining balance of \$44.4 million is the PTO's interest in the Fund Balance account.

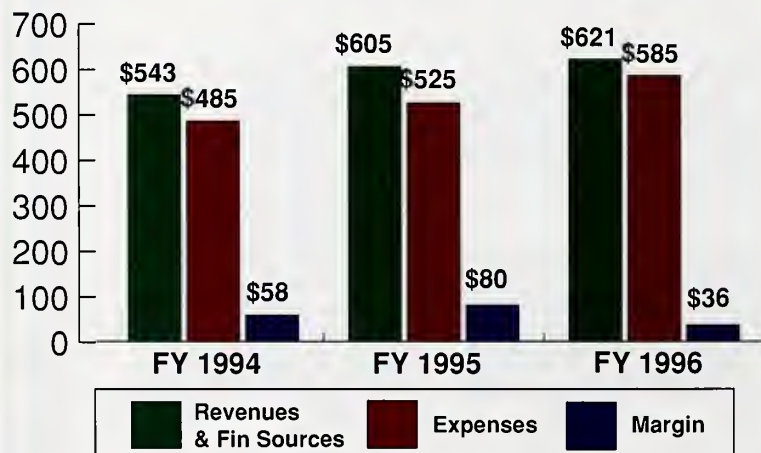
Trends in Revenues and Expenses

Fee collections have continued to climb as the demand for PTO products and services has increased. Customers pay fees when they order the products and services. The increase in collections caused the PTO to record large year-end balances in the Statement of Financial Position accounts titled Fund Balance with Treasury and Cumulative Results of Operations. The three-year trends in revenues, expenses, and margin are shown below.

Most revenue represents income from the sales of goods and services; however,

\$2.3 million was from another financing source, appropriated capital, used during the year. Total income from fee collections (patents and trademarks) in FY 1996 was \$618.9 million; an increase of 2.6 percent from FY 1995 fee income of \$603 million. Maintenance fees accounted for \$211.8 million of the FY 1996 collections. Patent maintenance fees are collected by the PTO from owners of previously issued patents over the life of the patent. If maintenance fees are not remitted at each of three stages, patents will expire. Anticipated renewal rates are planned based on the most recent historical data, which are currently: 79 percent at the first stage (at the end of the third year after a patent is issued); 55 percent at the second stage (at the end of the seventh year after a patent is issued); and 32 percent at the third stage (at the end of the 11th year after a patent is issued). Although revenues from Patent and Trademark applications rose \$16 million, the margin decreased between FY 1995 and FY 1996 by \$44 million due primarily to four reasons: (1) expenses for personnel services rose \$21.2 million; (2) expenses for contractual services increased by \$27.2 million; (3) depreciation expense climbed \$8.1 million reflecting increased capital investments; and (4) the calculation for deferred revenue was refined.

Trends in Revenues, Expenses, and Margin
\$ in millions



Expenses increased faster than revenues during FY 1996, reducing the overall margin.

The PTO received 191,116 utility, plant and reissue (UPR) patent applications and 15,160 design applications. The UPR application filings workload decreased by 13.6 percent below the previous year and the design applications decreased slightly by 1.4 percent. This decrease in UPR filings is an anomaly, resulting from a change in the law during the previous year, which created a surge in patent application filings in FY 1995 prior to the legislation becoming effective. Despite recent decreases, the forecast is for increased UPR and design applications.

In FY 1996, the PTO received 200,640 trademark applications, an increase of 14.5 percent from last year's filing level of 175,307. The number of applications has continued to increase at higher than anticipated rates, increasing 60 percent over the past five years while staffing levels for the same period increased less than 10 percent.

Total Expenses for FY 1996 amounted to \$584.9 million, of which Operating Expenses accounted for \$553.7 million. This is a 10.2 percent increase in Operating Expenses from FY 1995, primarily the result of an increase in contractual services. As a provider of products and services, the PTO's personnel costs represent its greatest expense. In FY 1996, salaries and benefits were \$330.8 million, accounting for 59.7 percent of total operating expenses, rising from \$309.6 million in FY 1995, although decreasing slightly as a percent of total operating expenses from 61.6 percent. The decrease reflects the effect of Federal hiring constraints, as workloads rise disproportionately higher than increases in the number of employees.

Investments in new automation technology have increased as some processes transform from paper-based to electronic systems. This increase will be significantly reduced in the future because of restrictions placed on the PTO's ability to spend the fees it collects. One of the PTO's largest automation efforts is the deployment of the Automated Patent System (APS). While a portion of the costs associated with deploying the APS is expensed as incurred, other costs are capitalized and depreciated over the useful life of the system. Thus, the Statement of Operations includes both APS costs expensed in FY 1996 and the annual depreciation recognized.

To provide market incentives for those seeking patents, the current patent fee structure

allows for lower initial fees that are supplemented by income from other sources, such as maintenance fees, to cover the full cost of the patent examination and issuance process as well as other PTO operations (e.g., patent documentation and quality review). As with the decision to apply for a patent, the decision to renew a patent rests entirely with the patent owner and is subject to industry and market considerations. However, since the maintenance fees are the largest category of fee income, fluctuations in rates of renewal can significantly affect revenues. PTO analysts compare fee plans to actual revenue received, project income using regression analyses and other economic models, and adjust projections accordingly.

The result is that, in FY 1996, the PTO experienced growth in its revenues and expenses, with a decrease in the operating margin from FY 1995. However, growth in revenues was limited due to an increase in deferred revenues. The examination processes rely heavily upon trained and experienced patent examiners and trademark attorneys. With recruiting efforts being further curtailed by the FY 1997 budget cuts, backlogs of PTO applications will increase.

Changes in Principal Accounts

Most of the assets managed by the PTO are funds deposited at Treasury, cash, and capital equipment. To expedite the collection and deposit of funds, customers are offered various mechanisms for remitting fees. These include payment by mail, payment by electronic transfer, payment to cashiers located in the PTO office complex, and establishment and use of deposit accounts. Capital equipment includes hardware, software, and office furniture and equipment.

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Liabilities are divided between Intra-governmental Liabilities and Governmental Liabilities. Most PTO liabilities result from deferred revenues, i.e., undeposited checks at year-end and fees received for services requested, but not fully earned until the services are completed. Other significant PTO liabilities include the deposit accounts and accounts payable.

The PTO reports its equity in three components: invested capital, cumulative results of operations, and other -- revenue withheld. A detailed discussion of each component was provided earlier.

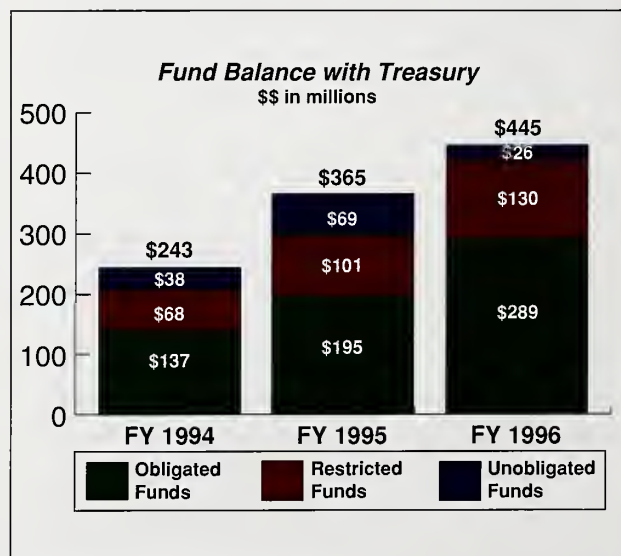
Comparisons of the ending balances of selected asset, liability, and equity accounts for FY 1994 through FY 1996, as reflected in the respective year's Statement of Financial Position, are shown in the charts that follow. The graphs presented do not display ending balances by line item, and all amounts are rounded to the nearest million dollars. Amounts contained in the narrative are rounded to the nearest tenth of a million dollars and percentages are rounded to the nearest tenth of a percent. All numbers are derived from amounts appearing in the financial statements. Also, it is important to note that the restricted fund balances and equity segments associated with patent revenue withheld are not available for use without additional appropriations by Congress.

SELECTED ASSET ACCOUNTS

ANALYSES portrayed are to assist the reader in understanding the nature of the assets included in the balance sheet, the current three-year trends, and the extent of the future economic benefit to the PTO. The accounts presented below include Fund Balance with Treasury and Property and Equipment.

Fund Balance with Treasury includes the amounts set aside for the payment of outstanding obligations and restricted funds for the deposit accounts, nonentity funds, and revenue withheld by Congress. Of the \$444.7 million total balance for FY 1996, the unobligated funds available totaled only \$26.1 million, a decrease of 62.5 percent below the FY 1995 unobligated amount of \$69.6 million. The unobligated fund balance of \$26.1 million is in excess of the amount which the PTO had the authority to use. Of the \$130.1 million in restricted funds, \$0.9 million is reserved pending resolution of a restricted funds rescission.

Property and Equipment (P&E) is stated at net book value of \$71.4 million, which is the original acquisition cost of \$161.5 million less the total accumulated depreciation of \$90.1 million. Reducing the carrying value of P&E balances by depreciation values provides for the economic distribution of the cost of using these assets over time. The P&E increase of 34.2 percent from the FY 1995



balance of \$53.2 million is the result of purchases of APS equipment and software, other Automated Data Processing (ADP) equipment and software, a network/telecommunications upgrade, and office furniture. Since FY 1994, net P&E has grown 38.8 percent.

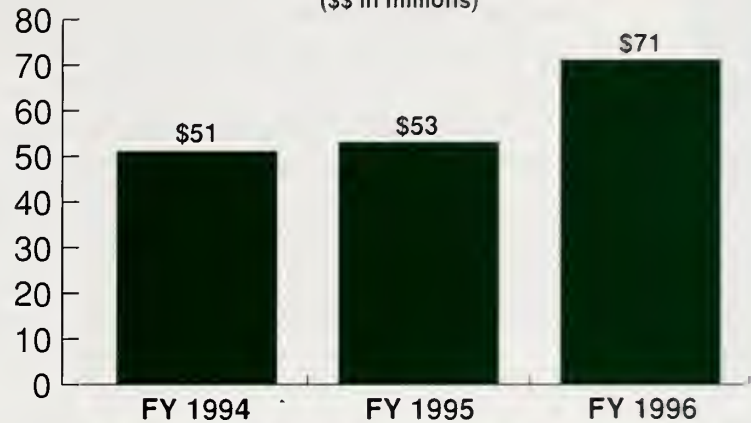
SELECTED LIABILITY ACCOUNTS

ANALYSES are discussed to assist the reader in understanding the nature of liabilities included in the Statement of Financial Position. The graphs portray three-year trends in selected liability accounts. The PTO classifies the accrued annual leave as a Liability Covered by Budgetary Resources instead of a Liability Not Covered by Budgetary Resources, as there are sufficient resources available at year-end. However, these amounts remain unobligated for budgetary purposes at the close of FY 1996. Accounts presented include Accounts Payable, Deposit Accounts, and Deferred Revenue.

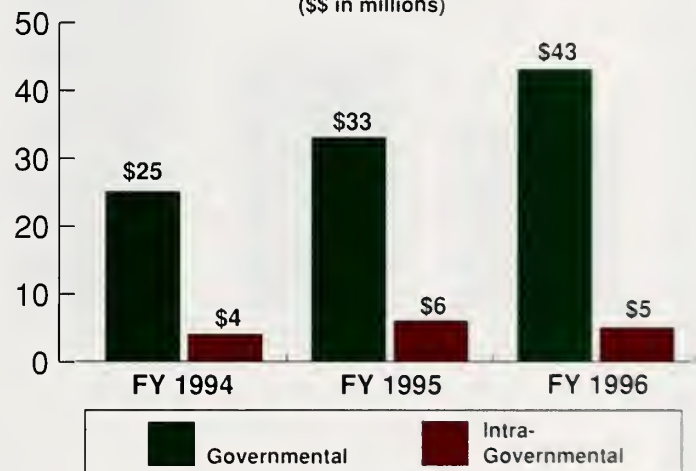
Accounts Payable balances shown include Federal and non-Federal accounts payable. These are monies owed for goods and services received for which the PTO has not yet made payment. At the end of FY 1996, payments owed other Federal agencies (intragovernmental) totaled \$5.3 million, a 5.5 percent decrease from \$5.6 million in FY 1995. In addition \$43.0 million was owed to non-Federal entities (governmental), a 30.3 percent increase from \$33.0 million in FY 1995 resulting primarily from the effects of the Continuing Resolution. The total balance has realized a net increase of 66.6 percent since FY 1994.

Deposit Accounts are maintained by the PTO as a service to its customers. The associated liability results from monies paid to the PTO in anticipation of a future demand for services. Upon receipt of a service request

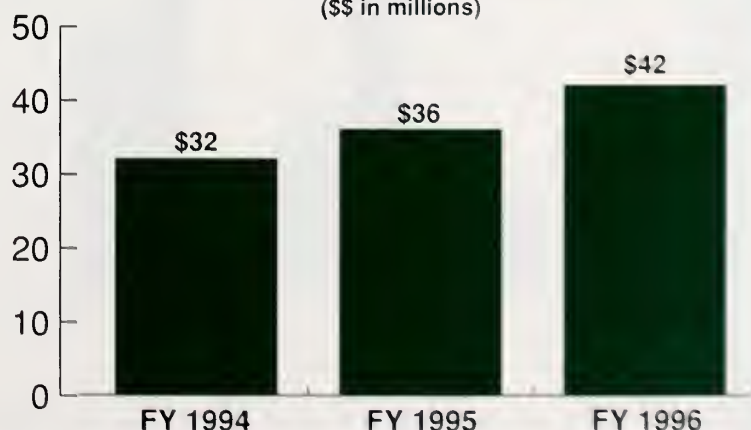
Property and Equipment (Net)
(\$\$ in millions)



Accounts Payable
(\$\$ in millions)



Deposit Account Liability
(\$\$ in millions)

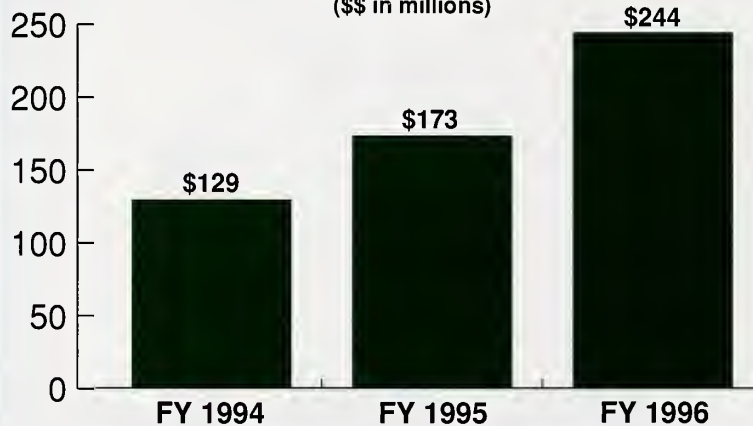


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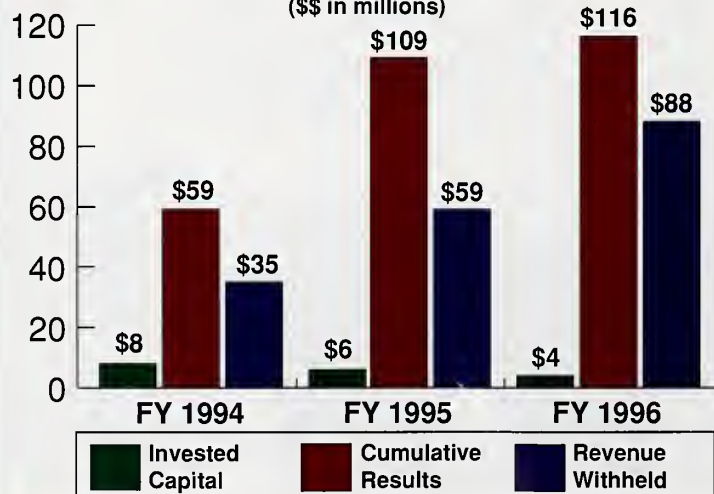
from a customer maintaining a deposit account, the PTO deducts the appropriate fee from the respective account. At the end of FY 1996, the liability was \$41.5 million, an increase of 15.8 percent over the FY 1995 balance of \$35.8 million. This reflects a decrease in charges against customer deposit accounts resulting from a rise in unprocessed applications, as well as a small increase in the number of accounts. The balance has increased 27.9 percent since 1994.

Deferred Revenue represents undeposited checks at year-end and fees received for services requested, but not fully earned until the services are completed. This differs from advances to deposit accounts for which a specific service has not yet been requested; however, funds to cover future requests are held by the PTO. Deferred revenue at September 30, 1996, was \$243.8 million, an increase of 40.6 percent from the FY 1995 balance of \$173.4 million. The increase resulted, in part, from a one-month increase in the pendency cycle and an increased backlog of undeposited checks at year-end. A business process re-engineering effort is currently under way to help abate the rising backlog. In addition, the deferred revenue calculation was refined, resulting in additional deferrals. The balance has risen 88.8 percent since FY 1994.

Deferred Revenue
(\$\$ in millions)



Trends in Equity Accounts
(\$\$ in millions)



EQUITY ACCOUNTS ANALYSES are presented for comparative fiscal years. Equity is the residual interest in the assets of the entity that remains after deducting its liabilities. From FY 1995 to FY 1996, the equity or "net position" increased \$34.0 million. However, \$28.7 million of this resulted from an increase in revenue withheld. The PTO reports its equity in three components: invested capital, cumulative results of operations, and other -- revenue withheld. In the aggregate, these components of equity comprise the PTO's net position and each component is discussed below.

Invested Capital is the net book value of capitalized fixed assets that were purchased with appropriations from general taxpayer revenue. Because the PTO is no longer funded from taxpayer revenues, this account balance will decrease each year as depreciation expense is realized. The balance in this account was \$3.9 million on September 30, 1996, a decrease of 37.0 percent from the

balance of \$6.2 million on September 30, 1995. Since 1994, the balance has decreased 53.5 percent.

Cumulative Results of Operations represents the cumulative unrestricted net operating results recognized by the entity since its inception. The balance in this account does not include the revenue withheld that has been earned, but not appropriated for use. The equity account for revenue withheld is shown separately. The balance in the CRO account was \$116.5 million on September 30, 1996, an increase of 7.0 percent from the balance of \$109.0 million a year earlier. Since 1994, the balance has grown 98.4 percent from \$58.7 million. This growth results, in part, from increased capital investments.

Other -- Revenue Withheld is the third component of PTO net position. This portion of the equity is segregated because of restrictions associated with the unavailability of the customer-paid fees. Although these fees were earned, additional action by Congress is required to make these balances available for use by the PTO. Total revenue withheld reached \$87.8 million at the end of FY 1996, an increase of 48.5 percent over the FY 1995 balance of \$59.1 million. Since 1994, the revenue withheld has increased 150.1 percent.

Significant Actions, Accomplishments, and Results

Financial Management: Quantitative indicators, as prescribed by the Office of Management and Budget (OMB), monitor

MEASURE	TARGET PERFORMANCE	PTO PERFORMANCE
Percentage of Timely Vendor Payments	95%	97%
Percentage of Payroll by Electronic Transfer	90%	96%
Percentage of Treasury's Agency Locations Fully Reconciled	95%	100%
Timely Posting of Interagency Charges	30 days	29 days
Timely Reports to Central Agencies	95%	100%
Timely Travel Payments Average Processing Time	15 days	9 days
Audit Opinion on FY 1996 Financial Statements	Unqualified	Unqualified
Material Weaknesses Reported by Auditor	None	Two

Financial Review

progress toward improved financial management. The preceding chart depicts the goals or target performance established by OMB for FY 1996 and the performance of the PTO during that period.

Financial Systems: At the beginning of FY 1992, the PTO implemented the Federal Financial System (FFS) and assumed responsibility for all accounting records. Software and hardware support for the core system are supplied via a cross-servicing arrangement with the U.S. Geological Survey of the Department of the Interior. Improvements for FY 1996 and enhancements planned for FY 1997 to PTO's financial management system include:

- interim upgrade to the procurement subsystem that was implemented in FY 1996;
- subsequent major upgrade to the procurement subsystem scheduled for mid-1997;
- improvements to the travel subsystem;
- redevelopment of the revenue accounting system, planned for implementation in May 1997;
- continuing implementation of the re-engineered budget process;
- implementation of an interface between the capitalizable property subsystem and the core financial system, which began in January 1996;
- continuing implementation of a pilot Electronic Data Interchange to enhance Electronic Commerce capabilities and improvement initiatives;

- deployment of a data warehousing pilot on September 30, 1996, and continuing efforts for an enterprise-wide data warehouse;
- enhancements to the Budget Formulation Module for preparing budget estimates; and
- enhancements to the Budget Allocation Module for preparing operating plans after budget enactment.

Management Controls: For FY 1996, the PTO provided reasonable assurance of compliance with the provisions of the Federal Managers Financial Integrity Act. Weaknesses in existing subsystems were identified in past years and reported to the Department of Commerce. Additional weaknesses were identified by the Office of Inspector General during its audit of the FY 1995 financial statements. Reported weaknesses and anticipated dates for full correction follow.

SECTION 2 MATERIAL WEAKNESSES	CORRECTION DATE
None	N/A
SECTION 4 MATERIAL NONCONFORMANCE	CORRECTION DATE
System Security Weaknesses in the Cash Receipts/Deposit Accounts System (a Privacy Act Records System)	1997
Violation of Financial Information Standards in Cash Receipts/Deposit Accounts System	1997
Procedures for Accounting for Capital Assets Should Be Improved.	1997
Preparation, Analysis, and Monitoring of Financial Information Should Be Improved.	1997

Limitations of Financial Statements

Pursuant to the requirements of the Chief Financial Officers Act of 1990, as amended by the Government Management Reform Act of 1994, the financial statements that follow have been prepared to report the financial position and results of operations of the Patent and Trademark Office. The fiscal year 1996 financial statements consist of the Statement of Financial Position, the Statement of Operations and Changes in Net Position, and the Statement of Cash Flows. The following limitations apply to the preparation of the fiscal year 1996 financial statements:

- While the statements are prepared from the books and records of the entity in accordance with the formats prescribed by the Office of Management and Budget (OMB), the statements are different from the financial reports used to monitor and control budgetary resources that are prepared from the same books and records.
- The statements should be read with the realization that they are for a component of a sovereign entity, that liabilities not covered by budgetary resources cannot be liquidated without the enactment of an appropriation, and that the payment of all liabilities other than for contracts can be abrogated by the sovereign entity.

Financial Review

**DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
STATEMENT OF FINANCIAL POSITION
As of September 30, 1996 and 1995**

ASSETS	1996	1995
Entity Assets:		
Intragovernmental Assets:		
Fund Balance With Treasury (note 2)	\$443,805,719	\$359,358,239
Accounts Receivable	4,086,810	5,809,818
Advances and Prepayments	37,561	521,649
Governmental Assets:		
Accounts Receivable	507,491	472,603
Cash	64,938,429	41,594,809
Property and Equipment, Net (note 3)	71,408,820	53,206,340
Total Entity Assets	<u>584,784,830</u>	<u>460,963,458</u>
Non-Entity Assets		
Intragovernmental Assets		
Fund Balance With Treasury (note 2)	871,000	5,920,000
Total Non-Entity Assets	<u>871,000</u>	<u>5,920,000</u>
Total Assets	<u><u>\$585,655,830</u></u>	<u><u>\$466,883,458</u></u>
LIABILITIES		
Liabilities Covered by Budgetary Resources:		
Intragovernmental Liabilities:		
Accounts Payable	\$5,313,654	\$5,625,633
Customer Deposit Accounts	2,915,307	2,641,230
Other Liability Due to Treasury (note 8)	871,000	5,920,000
Governmental Liabilities:		
Accounts Payable	42,978,447	32,987,092
Accrued Payroll & Benefits	22,955,465	20,036,570
Actuarial Liability (note 4)	3,085,691	2,486,292
Customer Deposit Accounts	38,564,247	33,167,828
Deferred Revenue (note 5)	243,776,228	173,388,906
Capital Leases (note 6)	0	625,314
Accrued Annual Leave	16,984,688	15,780,258
Total Liabilities	<u>377,444,727</u>	<u>292,659,123</u>
NET POSITION		
Balances:		
Invested Capital	3,876,383	6,157,345
Cumulative Results of Operations	116,553,721	108,961,991
Revenue Withheld	87,780,999	59,104,999
Total Net Position	<u>208,211,103</u>	<u>174,224,335</u>
Total Liabilities and Net Position	<u><u>\$585,655,830</u></u>	<u><u>\$466,883,458</u></u>

The accompanying notes are an integral part of these statements.

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**DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
STATEMENT OF OPERATIONS AND CHANGES IN NET POSITION
For the years ended September 30, 1996 and 1995**

	1996	1995
REVENUES AND FINANCING SOURCES		
Revenues from Sales of Goods and Services		
To the Public	\$614,702,409	\$598,580,038
Intragovernmental	4,217,611	4,423,424
Appropriated Capital Used	2,280,962	2,170,532
Total Revenues and Financing Sources	<u>621,200,982</u>	<u>605,173,994</u>
EXPENSES		
Program or Operating Expenses (note 7)	553,675,691	502,305,392
Depreciation and Amortization	30,658,162	22,605,998
Change in Actuarial Liability (note 4)	599,399	129,403
Total Expenses	<u>584,933,252</u>	<u>525,040,793</u>
Excess of Revenues and Financing Sources Over Total Expenses	<u>\$36,267,730</u>	<u>\$80,133,201</u>
Net Position, Beginning Balance	\$174,224,335	\$102,181,666
Excess of Revenues and Financing Sources Over Total Expenses	36,267,730	80,133,201
Decrease in Invested Capital	(2,280,962)	(2,170,532)
Decrease due to Permanent Cancellation/ Rescission (note 8)	0	(5,920,000)
Net Position, Ending Balance	<u>\$208,211,103</u>	<u>\$174,224,335</u>

The accompanying notes are an integral part of these statements.

Financial Review

**DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
STATEMENT OF CASH FLOWS (INDIRECT)
For the years ended September 30, 1996 and 1995**

	1996	1995
CASH FLOWS FROM OPERATING ACTIVITIES:		
Excess of Revenues and Financing Sources over Total Expenses	<u>\$36,267,730</u>	<u>\$80,133,201</u>
Adjustments Affecting Cash Flow:		
Appropriated Capital Used	(2,280,962)	(2,170,532)
Decrease/(Increase) in Accounts Receivable	1,688,120	(5,783,194)
Decrease in Prepayments	484,088	415,961
Increase in Accounts Payable	9,679,376	9,627,728
Increase in Other Liabilities	73,927,713	55,239,345
Decrease in Capital Lease Liability	(625,314)	(8,810,009)
Depreciation and Amortization	30,658,162	22,605,998
Increase in Accrued Annual Leave	1,204,430	1,574,765
Change in Actuarial Liability	599,399	129,403
Decrease Due to Capital Lease Liability Cancellations	116,318	0
Total Adjustments	<u>115,451,330</u>	<u>72,829,465</u>
Net Cash Provided by Operating Activities	<u>151,719,060</u>	<u>152,962,666</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of Property and Equipment	<u>(48,976,960)</u>	<u>(24,375,763)</u>
Net Cash Used in Investing Activities	<u>(48,976,960)</u>	<u>(24,375,763)</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Permanent Cancellation/Rescission	<u>0</u>	<u>(5,920,000)</u>
Net Cash Provided (Used) by Financing Activities	<u>0</u>	<u>(5,920,000)</u>
Net Cash Provided by Operating, Investing and Financing Activities	102,742,100	122,666,903
Fund Balances with Treasury (Entity and Non-Entity) and Cash, Beginning	<u>406,873,048</u>	<u>284,206,145</u>
Fund Balances with Treasury (Entity and Non-Entity) and Cash, Ending	<u><u>\$509,615,148</u></u>	<u><u>\$406,873,048</u></u>

The accompanying notes are an integral part of these statements.

Notes to the Financial Statements

NOTE 1. Summary of Significant Accounting Policies

Basis of Presentation

As required by the Chief Financial Officers Act of 1990, these financial statements report the financial position and results of operations of the Patent and Trademark Office (PTO) of the United States. The books and records of the PTO serve as the source of the information contained herein. The financial statements were prepared in accordance with the guidance specified by the Office of Management and Budget (OMB) in Bulletin 94-01, as well as the accounting policies of the PTO; therefore, they may differ from other financial reports submitted pursuant to OMB directives for the purpose of monitoring and controlling the use of the PTO's budgetary resources.

Reporting Entity

The Patent and Trademark Office is a program of the U.S. Department of Commerce (DOC) that administers the Nation's patent and trademark laws. Since the passage of the Omnibus Budget Reconciliation Act of 1990 (OBRA), the program has been funded almost entirely by user fees. Prior to FY 1993, the appropriated funds from general taxpayer revenue gradually decreased until PTO became fully fee funded in FY 1993. The bulk of the fees collected are offsetting collections that are retained by the PTO until expended; however, the revenue withheld imposed on statutory patent fees with the enactment of the OBRA constitutes an offsetting receipt. These offsetting receipts are deposited into a restricted account at the U.S. Treasury. The PTO is only authorized to use monies from this account to the extent appropriated by Congress. Thus, the U.S. Treasury makes these funds available to the PTO by the issuance of a warrant each month to the extent such funds were authorized for use. The excess monies are not available to the PTO and are retained in a restricted receipt account by the U.S. Treasury. Any authorized funding that is not expended during a given fiscal year is carried forward for use in the following fiscal year.

The accompanying financial statements include the accounts for salaries and expense (13X1006), surcharge (revenue withheld) (13X5127), and customer deposits (13X6542) appropriations, which are under the control of the PTO. The PTO has no lending or borrowing authority.

Budgets and Budgetary Accounting

In FY 1993 through 1996, the majority of funding was received through the collection of user fees. User fee rates are established by rule and law.

Revenue withheld on patent statutory fees was established by the OBRA. Subsequent pieces of legislation removed the reference to a specific surcharge withholding of 69 percent, required the PTO to deposit exact amounts of revenue withheld, and extended the revenue withheld through the end of FY 1998. These represent offsetting receipts and are available to the PTO only to the extent appropriated by Congress. All revenue withheld is recorded as revenue. However, any revenue withheld by the PTO, but not appropriated by Congress for use, is maintained by the U.S. Treasury as restricted funds.

Fees other than the revenue withholding fees referenced above are offsetting collections and are available to the PTO until expended. Funds authorized but not used in a given fiscal year are carried forward for use in future periods.

Basis of Accounting

Transactions are recorded on the accrual basis of accounting as well as on a budgetary basis. Under the accrual method, revenues are recognized when earned, and expenses are recognized

Financial Review

when a liability is incurred, without regard to the receipt or payment of cash. Budgetary accounting facilitates compliance with legal constraints and controls over the use of Federal funds. The accompanying financial statements are presented on the accrual basis of accounting.

Revenues and Other Financing Sources

In FY 1993 through 1996, the majority of revenues were derived from the collection of user fees. Appropriations expended in prior years for the purchase of property and equipment are recognized as revenues, as the assets are consumed in operations.

Advance payments made by customers for services not yet requested are recorded as liabilities in customer deposit accounts until services are rendered. Fees that are remitted with initial applications and other services are recorded as revenue when received. A manual calculation is made at year-end to estimate deferred revenue for services that have not been performed. The methodology for calculating deferred revenue was expanded to include new sources of deferred revenue, most significantly, issue fees.

Although not material in amount, some financial gifts and gifts-in-kind are received from anonymous donors. Most gifts-in-kind are used for official travel to further the attainment of the mission and management objectives of the PTO. The results of these transactions are not reflected in the PTO statements, but are included in the consolidated Gifts and Bequests Fund statements prepared by the Department of Commerce.

Funds with the U.S. Treasury

Commercial bank accounts are maintained to deposit revenues collected. All monies maintained in such accounts are transferred to the Federal Reserve Bank on the next business day following the day of deposit. In addition, some customer deposits are wired directly to the Federal Reserve Bank. All banking activity is conducted in accordance with the directives issued by the Financial Management Service of the U.S. Treasury Department. With the exception of those that are restricted, funds with the U.S. Treasury and cash are available to pay current liabilities and to finance duly authorized purchases. All disbursements are processed by the Philadelphia Regional Finance Center of the U.S. Treasury Department.

Accounts Receivable

Governmental accounts receivable represent amounts due from non-Federal entities, the majority of which are due from former employees for the reimbursement of education expenses. Intragovernmental accounts receivable represent amounts due from other Federal entities, of which \$3.9 million is due to a financing agreement entered into in FY 1995 with the Department of Commerce to fund the Commerce Administrative Management System.

Advances and Prepayments

Advances and prepayments have decreased significantly in the current fiscal year for two reasons. First, management elected not to prepay 1997 servicing of the Federal Financial System (FFS) by the U.S. Geological Survey (USGS) after exhausting the existing prepaid balance. Second, American Express card usage has been rising, particularly among frequent travelers, reducing the need for travel advances.

Cash

The majority of the cash balance consists of checks not yet deposited at the U.S. Treasury Department that are a result of fees collected by the PTO that have not been processed due to the lag time between receipt and initial review. Small cash balances are also held outside the U.S. Treasury Department that are not material and are used as imprest funds to facilitate

small purchases, local travel, and emergency salary advances. The cash balance includes undeposited checks of \$64,857,387 and \$41,579,809 in FY 1996 and 1995, respectively, and an imprest fund of \$15,000 in both years.

Property and Equipment

The buildings in which the PTO operates are leased from private concerns by the General Services Administration (GSA). Long-term leases are negotiated by GSA and appropriate rent charges are levied. The rental rates assessed by GSA and paid by the PTO approximate the market rates for similar commercial properties.

Automated data processing software purchased "off the shelf" with an estimated service life of two years or greater is capitalized when the cost exceeds \$25,000.

The costs for developing custom software are capitalized when incurred for creating the detailed design, coding, and final testing of the software.

Bulk purchase costs of furniture, with an estimated service life of two years or greater are capitalized when the total monetary value of the purchase order/delivery order equals or exceeds \$50,000 (including shipping and installation).

Automated Patent System (APS) equipment and other assets with an individual unit cost of \$5,000 or greater (including shipping and installation) and an estimated service life of two years or greater are capitalized. In instances other than those listed above, the entire cost is recorded as an expense upon receipt of the equipment or other asset with the following exceptions:

- (1) The total amount of the order, including shipping and installation, is capitalized if the equipment procured is made via a major contract.
- (2) The total amount of the order, including shipping and installation, is capitalized if the procurement represents the initial purchase of equipment in connection with the installation of a major system.
- (3) If the procurement represents the purchase of additional items for an existing major system, only those items with an individual unit cost of \$5,000 or greater will be capitalized.

Depreciation is calculated using the straight line method over the following service lives: APS equipment 3-10 years, APS software 3-11 years, ADP equipment 3-5 years, ADP software 3 years, PTOnet equipment 3-5 years, equipment 3-5 years, and furniture 5 years.

Liabilities

Liabilities represent the amount of monies or other resources that are likely to be paid by the PTO as the direct result of an event that has already occurred. All such liabilities recognized in FY 1993 through 1996 have been fully funded. However, no liability can be paid by the PTO unless funding is available. Also, liabilities of the PTO arising from other than contracts can be abrogated by the government acting in its sovereign capacity.

Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. An adjustment is made at the end of each fiscal year to ensure that the balance in the accrued annual leave account reflects current pay rates. Accrued annual leave is reported as covered by budgetary resources for financial statement presentation only. No portion of this liability has been obligated. To the extent current or prior year funding is not available to cover annual leave earned but not taken, funding will be obtained from future financing sources.

Financial Review

Sick leave and other types of non-vested leave are expensed as taken. Any liability for sick leave that is accrued by an individual but not taken is transferred to the Office of Personnel Management upon the retirement of that individual.

Retirement Plan

The PTO employees participate in the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS). The FERS was established by the enactment of Public Law 99-335. Pursuant to this law, most employees hired after December 31, 1983, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1984, can elect to join either FERS and Social Security or remain in CSRS.

For those employees covered by the CSRS, the PTO makes contributions equivalent to seven percent of the employee's pay. For those covered by the FERS, the PTO makes contributions equal to approximately 13 percent.

All employees are eligible to contribute to a thrift savings plan. For those employees participating in the FERS, a thrift savings plan is automatically established, and the PTO makes a mandatory one percent contribution to this plan. In addition, PTO makes matching contributions, ranging from one to four percent, for FERS eligible employees who contribute to their thrift savings plans. No matching contributions are made to the thrift savings plans established by CSRS employees.

FERS employees and certain CSRS reinstatement employees are eligible to participate in the Social Security program after retirement. In these instances, the PTO remits the employer's share of the required contribution.

The financial statements of the PTO do not report CSRS or FERS assets, accumulated plan benefits, or unfunded liabilities, if any, which may be applicable to its employees. Such reporting is the responsibility of the Office of Personnel Management.

Additionally, as required by the Federal Workforce Restructuring Act of 1994, the PTO contributed \$80 per position on the roles as of March 31, 1996, to the Civil Service Retirement and Disability Fund.

Comparative Data

1995 Financial Statements were reclassified and restated to conform with the 1996 presentation.

NOTE 2. Fund Balance with Treasury

Fund Balance with Treasury consisted of the following as of September 30:

	Available	Restricted	1996	1995
Appropriated Funds - Obligated	\$288,488,847	\$ 0	\$288,488,847	\$194,891,312
Appropriated Funds - Unobligated	26,056,319	0	26,056,319	69,552,870
Deposit Accounts	0	41,479,554	41,479,554	35,809,058
Revenue Withheld	0	87,780,999	87,780,999	59,104,999
Non-Entity Funds (note 8)	0	871,000	871,000	5,920,000
Total Fund Balances	\$314,545,166	\$130,131,553	\$444,676,719	\$365,278,239

*Deposit Account balances represent advance payments by customers for future services.
Revenue Withheld represents fees earned, but not available for use.*

NOTE 3. Property and Equipment

Property and Equipment consisted of the following as of September 30, 1996:

	Service Life (Years)	Acquisition Value	Accumulated Depreciation	Net Book Value
Classes of Fixed Assets				
APS Equipment	3-10	\$46,115,075	\$37,637,452	\$8,477,623
APS Software	3-11	23,716,925	16,658,225	\$7,058,700
APS Software in Progress	*	1,886,537	0	\$1,886,537
ADP Equipment	3-5	42,319,787	19,917,368	\$22,402,419
ADP Software	3	14,668,421	3,879,608	\$10,788,813
PTOnet	3-5	17,586,461	5,027,795	\$12,558,666
Equipment	3-5	7,443,614	4,175,867	\$3,267,747
Furniture	5	7,786,168	2,817,853	\$4,968,315
Total		\$161,522,988	\$90,114,168	\$71,408,820

*Note that software in progress is not depreciated as it has not yet been placed in service.

Property and Equipment consisted of the following as of September 30, 1995:

	Service Life (Years)	Acquisition Value	Accumulated Depreciation	Net Book Value
Classes of Fixed Assets				
APS Equipment	3-10	\$45,667,899	\$32,284,610	\$13,383,289
APS Software	3-11	22,754,455	12,460,550	10,293,905
ADP Equipment	3-5	30,301,044	14,612,765	15,688,279
ADP Software	3	6,825,181	2,135,841	4,689,340
PTOnet	3-5	3,542,741	1,680,892	1,861,849
Equipment	3-5	4,051,106	1,634,624	2,416,482
Assets Under Capital Lease	3-5	1,693,138	807,897	885,241
Furniture	5	6,179,017	2,191,062	3,987,955
Total		\$121,014,581	\$67,808,241	\$53,206,340

Assets Under Capital Lease are for reproduction equipment.

Financial Review

NOTE 4. Actuarial Liabilities

The Federal Employees Compensation Act (FECA) provides income and medical cost protection to covered Federal civilian employees injured on the job, employees who have incurred a work-related occupational disease, and beneficiaries of employees whose death is attributable to a job-related injury or occupational disease. Claims incurred for benefits for Patent and Trademark Office (PTO) employees under FECA are administered by the Department of Labor (DOL) and are ultimately paid by the PTO. These future workers' compensation estimates were generated from an application of actuarial procedures developed to estimate the liability for FECA benefits. The actuarial liability estimates for FECA benefits include the expected liability for death, disability, medical, and miscellaneous costs for approved compensation cases. The liability was determined using the paid losses extrapolation method calculated over the next 23-year period. This method utilizes historical benefit payment patterns related to a specific incurred period to predict the ultimate payments related to that period. These annual benefit payments have been discounted to present value. Interest rate assumptions utilized for discounting were as follows:

1996	1995
6.21% in year 1,	7.10% in year 1,
5.97% in year 2,	6.60% in year 2,
5.60% in year 3,	and 7.00% thereafter.
5.32% in year 4,	
5.15% in year 5,	
and 5.10% thereafter.	

Based on information provided by the Department of Labor, the Department of Commerce determined that the estimated liability of the PTO as of September 30, 1996 and 1995, was \$3,085,691 and \$2,486,292, respectively.

NOTE 5. Deferred Revenue

Deferred revenue represents fees that have been received for requested services, but will not be earned until the related service is provided. Two types of deferred revenues are recorded. The first type results from checks received with a request for a service that were not deposited because of a backlog in production. The second type of deferred revenue relates primarily to fees for applications that have been partially processed and issue fees collected for which the patent has not been issued.

Application fees received that have undergone the initial processing phase but have not been reviewed by a patent examiner or a trademark attorney are deferred and revenues are recognized to the extent costs are incurred in the initial processing phase. The balance of the application fees received is considered unearned. Issue fees are earned over a 10-week processing cycle. Expenses for issues are evenly distributed over the processing cycle and revenue is earned to the extent processing is completed, with the remaining issues-in-process considered unearned.

Deferred revenue consisted of the following as of September 30:

	1996	1995
Checks received but not deposited	\$ 64,857,387	\$ 41,204,361
Unearned fees	178,918,841	132,184,545
Total Deferred Revenue	\$243,776,228	\$173,388,906

NOTE 6. Leases

Capital Leases:

During FY 1996, PTO entered into agreements to purchase all reproduction equipment under capital lease. At year-end the remaining lease liability balance, consisting of the prior year balance plus FY 1996 additions, net of fiscal year principal payments and cancellations, totaled approximately \$587,000. This balance was transferred to Accounts Payable, reducing the lease liability to zero. In addition, the equipment and its associated accumulated depreciation were reclassified from assets under capital lease to office equipment.

Operating Leases:

The buildings in which PTO operates are leased by the General Services Administration (GSA), and PTO is charged rent intended to approximate commercial rental rates. The majority of PTO's lease agreements will expire in early FY 1997. The PTO and GSA are currently involved in negotiations for future space requirements. Future lease payments are as follows:

Fiscal Year

1997	\$ 55,105,000
1998 (estimate)	56,483,000
1999 (estimate)	59,100,997
2000 (estimate)	61,819,578
2001 (estimate)	64,544,412
Total Future Lease Payments	\$297,052,987

Rent expense was \$41,304,825 and \$38,255,285 in FY 1996 and 1995, respectively.

NOTE 7. Program/Operating Expenses

For the Years Ended September 30:

	1996	1995
Operating Expenses by Object Classification		
Personal Services and Benefits	\$330,792,464	\$309,640,671
Travel and Transportation	1,826,475	1,286,538
Rental, Communication and Utilities	52,190,259	48,674,938
Printing and Reproduction	30,885,071	31,465,962
Contractual Services	93,249,565	66,025,572
Supplies and Materials	8,698,543	8,128,731
Equipment not Capitalized	7,357,432	5,711,426
Insurance Claims and Indemnities	31,050	42,800
Other:		
(a) Other services	3,160,913	8,625,483
(b) Training	6,344,608	6,163,940
(c) Maintenance and Repair	19,139,311	16,539,331
Total Expenses by Object Class	\$553,675,691	\$502,305,392

Personal Services and Benefits remained at approximately the same percent of the total budget. Contractual services increased as contract labor was needed to offset the hiring restrictions (FTE limitations).

Financial Review

NOTE 8. Permanent Cancellation/Rescission of Funds

During FY 1995, PTO fee collections of \$5,725,000 were subject to permanent cancellations in accordance with P.L. 103-317. Of the \$5,725,000, the use of \$2,195,000 and \$3,530,000 was permanently canceled to cover GSA rent and procurement savings reductions, respectively. In addition, PTO was subject to a rescission in funds of \$195,000 for administrative and travel savings in accordance with P.L. 104-19.

As of September 30, 1995, these funds had not been returned to the Department of Treasury and were included in PTO's Treasury Fund Balance. Accordingly, a non-entity asset and a corresponding liability were recorded for a total of \$5,920,000.

During FY 1996, permanently canceled and rescinded funds amounting to \$5,049,000 were taken from fees available for use by PTO and returned to Treasury as requested. A balance of \$871,000 remains in restricted surcharge funds and will only be available for use by PTO through future appropriations.

Additionally, PTO was subject to a rescission of \$1,072,000 during FY 1996. However, the rescission was subsequently reversed and the funds are expected to be made available for use. Thus, no related liability was deemed necessary.

NOTE 9. Commitments and Contingencies

Commitments:

In addition to future lease commitments discussed in Note 6, PTO is committed under obligations for goods and services that have been ordered but not yet received (undelivered orders) at fiscal year-end. Total undelivered orders for all PTO activities amounted to \$244,109,875 and \$156,333,013 as of September 30, 1996 and 1995, respectively.

Contingencies:

The PTO has not been billed by one of its contractors for personal property tax on previously leased equipment. PTO's contractor has filed a lawsuit against the localities assessing these taxes, contesting the valuation method used in the tax calculation and corresponding tax amount due. The amount of taxes owed cannot be currently estimated, but they are not expected to be material to PTO's financial statements. A court date has been tentatively set for June 1997.

The PTO is a party in various administrative proceedings, legal actions, and claims brought by or against it, which may ultimately result in settlements or decisions adverse to the Federal Government. Although the ultimate disposition of these proceedings is not presently determinable, management does not expect that any liability that might ensue would be material to PTO's financial statements.

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*Audit of the Patent and Trademark
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INSPECTOR GENERAL'S REPORT ON FINANCIAL STATEMENTS

Mr. Bruce A. Lehman
Assistant Secretary of Commerce and
Commissioner of Patents and Trademarks
Patent and Trademark Office
Washington, D.C.

We have audited the Statements of Financial Position of the Patent and Trademark Office (PTO) as of September 30, 1996 and 1995, and the Statements of Operations and Changes in Net Position, and Cash Flows for the years then ended. These statements are the responsibility of PTO's management. Our responsibility is to express an opinion on these Principal Statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards; *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget Bulletin No. 93-06, *Audits of Federal Financial Statements*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

The aforementioned standards also require us to issue reports on PTO's Internal Control Structure and Compliance with Laws and Regulations. We have issued separate reports dated January 21, 1997.

As required by Office of Management and Budget Bulletin No. 94-01, *Form and Content of Agency Financial Statements*, Note 1 to the Principal Statements describes the accounting policies used by PTO to prepare these statements, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the Statement of Financial Position of PTO as of September 30, 1996 and 1995, and the Statements of Operations and Changes in Net Position, and Cash Flows for the years then ended, present fairly, in all material respects, the financial position of PTO as of September 30, 1996 and 1995, and the results of its operations and changes in net position, and cash flows for the years ended September 30, 1996 and 1995, in conformity with the accounting policies described in Note 1.

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Our audits were made for the purpose of forming an opinion on the Principal Statements. The information in the other sections of *A Patent and Trademark Office Review* is not a required part of the Principal Statements but is supplementary information required by Office of Management and Budget Bulletin No. 94-01, *Form and Content of Agency Financial Statements*. Such information has not been subjected to the auditing procedures applied in the audit of the Principal Statements and, accordingly, we express no opinion on it.



Frank DeGeorge
Inspector General



Lisa Casias, Director
Financial Statements Audit Division

January 21, 1997

Inspector General's Report

*Audit of the Patent and Trademark
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INSPECTOR GENERAL'S REPORT ON INTERNAL CONTROL STRUCTURE

Mr. Bruce A. Lehman
Assistant Secretary of Commerce and
Commissioner of Patents and Trademarks
Patent and Trademark Office
Washington, D.C.

We have audited the Statement of Financial Position of the Patent and Trademark Office (PTO) as of September 30, 1996, and the Statements of Operations and Changes in Net Position, and Cash Flows for the year then ended, and have issued our report thereon dated January 21, 1997.

We conducted our audits in accordance with generally accepted auditing standards; *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget Bulletin No. 93-06, *Audits of Federal Financial Statements*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements.

In planning and performing our audit of the financial statements for the year ended September 30, 1996, we considered PTO's internal control structure in order to determine our auditing procedures for the purposes of expressing our opinion on the financial statements and to determine whether the internal control structure meets the objectives identified in the following paragraph. Our consideration included obtaining an understanding of the significant internal control structure policies and procedures and assessing the level of control risk relevant to all significant cycles, classes of transactions, or account balances; and for those significant internal control structure policies and procedures that have been properly designed and placed in operation, performing sufficient tests to assess more fully whether the controls are effective and working as designed.

The management of PTO is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that transactions, including those related to obligations and costs, are executed in compliance with laws and regulations that the Office of Management and Budget, PTO management, or the Inspector General have identified as being significant for which compliance can be objectively measured and evaluated; funds, property, and other assets are safeguarded against loss from unauthorized use or disposition; transactions are properly recorded and accounted for to permit the preparation of reliable financial reports in accordance

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with applicable accounting policies and to maintain accountability over the assets; and data that support reported performance measures are properly recorded and accounted for to permit preparation of reliable and complete performance information. Our evaluation of the controls for performance information was limited to controls to ensure the existence and completeness of the information.

We noted certain matters involving the internal control structure and its operation that we consider to be reportable conditions under standards established by the American Institute of Certified Public Accountants and OMB Bulletin No. 93-06. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the entity's ability to ensure that the objectives of the internal control structure, as previously defined, are being achieved. We have summarized the reportable conditions below, of which the first two are considered material weaknesses.

A material weakness is a reportable condition in which the design or operation of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited or material to a performance measure or aggregation of related performance measures may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

A letter dated February 27, 1997, transmitting our audit report to PTO, includes an attachment to our Report on Internal Control Structure which discusses each of the control weaknesses in more detail and provides specific recommendations or actions PTO should consider taking.

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I. Weaknesses Considered to Be Material

Procedures for Accounting for Capital Assets Should Be Improved

PTO has not taken necessary actions to properly account for and safeguard capital assets. After the end of fiscal year 1993, PTO's Office of Finance hired a contractor to compile a subsidiary ledger and to propose necessary adjustments to the general ledger. In order to maintain this ledger, the Office of Finance reviewed fiscal year 1994 and 1995 purchase documentation and made the necessary adjustments to ensure the accuracy of additions for the respective fiscal years. Furthermore, the Office of Finance hired a contractor to ensure the accuracy of fiscal year 1996 capital asset additions.

This subsidiary ledger is currently used to support the capital asset balances in the general ledger. However, the Office of Administrative Services (OAS) is currently required to use the National Finance Center Personal Property System (NFC/PPS) to perform annual accountability procedures. Accordingly, OAS is responsible for coordinating an annual inventory of PTO property and updating the NFC/PPS subsidiary property ledger. During the previous and current year audits, we noted several deficiencies in this process, as discussed below.

In previous years, as a result of these deficiencies and at the request of the OIG, an inventory of Automated Patent System (APS) assets was performed by PTO in order to substantiate the balance of these assets in the subsidiary ledger. However, in fiscal year 1996, a contractor was hired to perform an inventory of all PTO assets, including accountable property, and update the tracking system that had been implemented in the previous year. The expectation was that the inventory count would be uploaded to the NFC/PPS Subsidiary Property Ledger and maintained prospectively. However, the validation of the inventory count is taking longer than anticipated and the database is not expected to be uploaded until March 31, 1997.

As a result of current audit procedures, we identified several issues relating to capital assets where the lack of adequate controls resulted in misstated capital asset balances.

Documented Capitalization Policies and Procedures

PTO does not have adequately documented policies and procedures to ensure the acquisition and depreciation of capital assets are recorded properly and on a consistent basis. Specifically, we identified numerous inconsistencies with the treatment of capitalizable purchases. In addition, PTO did not inquire about the useful lives for certain new purchases or update assessments made in prior years. Based on our procedures, we identified approximately \$630,000 and \$190,000 of under depreciation and over depreciation taken, respectively. In addition, as discussed below, we

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identified approximately \$3.5 million of capital assets included in expenses that should have been capitalized and approximately \$850,000 of non-capitalizable assets that were erroneously capitalized. We also noted instances where there was insufficient support for amounts capitalized and a lack of review of monthly status reports.

Disposals (Repeat Condition)

Disposal information is not reported to the Office of Finance to provide for the proper removal of items from the accounting records. The Office of Finance currently performs time consuming manual procedures to determine disposals at year-end. However, these procedures do not ensure that all disposals are identified. Based on our procedures, we identified approximately \$2 million of disposals that had not been removed from the accounting records.

Controls Over Property (Repeat Condition)

PTO has not completed its efforts to improve controls over property to ensure that it is properly recorded and safeguarded on an on-going basis. As discussed above, attempts are being made to perform a complete inventory and maintain an accurate listing. However, NFC/PPS still remains the official subsidiary property ledger for PTO and it is not currently maintained. In addition, problems with reconciling information between inventory listings and subsidiary property ledgers still remain.

For example, acquisitions of property through purchase or lease and disposals of property are not consistently reported to the Office of Administrative Services to enable it to perform its property accountability functions. We also identified that PTO was unaware that certain capital assets were at contractor sites. The locations were identified based on the OIG's request to observe certain assets and through PTO's reconciliation procedures.

As noted above, PTO invested significant resources by hiring a contractor to conduct a complete inventory and update the computerized tracking system. However, we noted that not all property movement is being updated with the tracking units. It is imperative that the system be maintained to ensure its accuracy and reliability.

Based on the problems noted above and other factors, a timely reconciliation of the inventory count to the assets in the general ledger could not be performed. Specifically, as of the end of audit fieldwork, PTO had not attempted a full reconciliation. In addition, a significant number of items were excluded from the inventory listing as they were considered "unknowns." Furthermore, the reconciliation worksheet provided did not include all fiscal year 1996 purchases

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or identify purchases received between year-end and the completion of the physical count in December. As a result, the OIG had to perform alternative audit procedures by observing assets to substantiate the capital asset balance as of September 30, 1996.

Preparation, Analysis, and Monitoring of Financial Information Should Be Improved

We identified weaknesses in the following areas relating to the preparation, analysis, and monitoring of financial information that could inhibit management's decision-making process:

Recording Liabilities (Repeat Condition)

PTO's procedures to identify liabilities at year-end are inadequate. Approximately \$23.5 million of liabilities were not recorded by PTO. Specifically, deferred revenue, a significant liability of PTO, was understated by \$18.7 million. This was the net of approximately \$25.2 million and \$6.5 million in adjustments increasing and decreasing deferred revenue, respectively. These errors resulted from the use of incorrect reports, faulty methodology, and not using the best data available. The approximately \$4.8 million remaining represented goods and services received prior to year-end that had not been accrued. In addition, we identified two instances in which invoices were erroneously accrued twice. As a result, liabilities were overstated by approximately \$930,000.

Review of Contractor Work

As a result of our fiscal year 1995 audit procedures, we identified and reported two material weaknesses in our *Report on the Audit of PTO's Financial Statements as of September 30, 1995 and 1994* (FSD-7695-6-0001). As a result, the Office of Finance procured the assistance of various contractors during fiscal year 1996 and 1997 to address the recommendations noted in the aforementioned report. The Office of Finance was unable to address these recommendations with its own staff due to a lack of resources.

Specifically, a total of three contractors were hired to perform tasks ranging from the review of general ledger coding; analyses of property and equipment, deferred revenue, year-end accruals, and copier buyouts; and preparation of the financial statement package. Throughout our fiscal year 1996 audit procedures, we identified numerous problems with the accuracy and reliability of financial information prepared by the contractors. The errors identified resulted in material misstatements in several account balances. This was a result of a lack of proper review of the

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contractor work by PTO and because the contractors are not as familiar with PTO operations, reports, and accounting systems. The Office of Finance was unable to provide the appropriate supervision of the contractors because of already overly burdened staff.

General Ledger Coding (Repeat Condition)

PTO continues to have inconsistencies or errors in the coding of purchases of goods or services recorded in the general ledger. Our procedures identified approximately \$3.5 million of capital assets included in expenses that should have been capitalized and approximately \$850,000 of non-capitalizable assets that were erroneously capitalized. In addition, approximately \$11.9 million in transactions were misclassified between expense accounts and approximately \$3.3 million of asset account misclassifications were identified.

In fiscal year 1994, PTO implemented a new procurement module in its financial system that was expected to alleviate coding errors by enabling the Office of Finance to review the accuracy of general ledger coding of all purchase transactions. During fiscal year 1996, all new requisitions were processed through Procurement Desktop. In addition to reviewing the transactions via Procurement Desktop, the Office of Finance performed a manual review of all transactions greater than \$5,000 to ensure proper coding. Although transactions had been subject to the noted reviews, the above errors still occurred.

Cost Analysis (Repeat Condition)

During September 1996, PTO bought out its remaining copier leases. Although recommended in our *Report on the Audit of PTO's Financial Statements as of September 30, 1995 and 1994* (FSD-7695-6-0001) that PTO implement procedures to ensure that appropriate financial analysis and review is performed on all business transactions, PTO did not prepare an analysis prior to the buyouts. Instead, an analysis was prepared subsequent to the date of the buyouts which did not detail accurate costs of the buyouts. In addition, we selected 3 of the 75 buyouts for review. From this sample, we identified one buyout in which PTO overpaid the vendor. The remaining two could not be assessed as the Office of Finance was unable to provide all of the related invoices.

Financial Fluctuation Analysis (Repeat Condition)

PTO has not implemented procedures that require monthly analyses of account balances as part of its normal operating procedures. Instead, PTO hired a contractor to prepare the fluctuation

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analysis, which compares fiscal year 1996 year-end balances to prior year-end balances, to satisfy an audit request. In addition, based on our procedures, the fluctuation analysis prepared was sometimes insufficient and inaccurate.

II. Weakness Considered to Be A Reportable Condition

Cash Receipts Should Be Deposited Timely (Repeat Condition)

PTO continues to have delays in the deposits of its cash receipts. At September 30, 1996, the elapsed time from the receipt of funds until their deposit with commercial banking institutions for patents and trademarks was approximately 20 and 13 working days, respectively. This was an increase over the 18 working day lag time for patents at September 30, 1995. However, the lag time for trademarks decreased by one day from the 14 working day lag at September 30, 1995. As a result, deferred revenue for checks not deposited as of September 30, 1996 amounted to approximately \$64.8 million. This was an increase of approximately \$23.6 million over the September 30, 1995 balance of approximately \$41.2 million. In addition, the time elapsed from receipt of fees until deposit results in a loss of interest earned to the U.S. Government.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses as defined above.

We also noted a certain other matter, while not considered to be a reportable condition, that we felt warranted inclusion in this report due to its significance and sensitivity. We have summarized this matter below. A letter dated February 27, 1997, transmitting our audit report to PTO, includes an attachment to our Report on Internal Control Structure which discusses the control weakness in more detail and provides specific recommendations or actions PTO should consider taking.

PTO Should Present Combining Statements (Repeat Condition)

PTO has not performed the necessary procedures to prepare combining statements that could be subject to audit procedures. In fiscal year 1994, PTO presented a Statement of Operations and

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Changes in Net Position that separated PTO functions into three activities (patents, trademarks, and other) as supplemental information. For fiscal year 1995, PTO hired a contractor to assist in the preparation of the combining statements for each of its programs (patents, trademarks, and information dissemination). The contractor was responsible for developing allocation methods for the combining statements. Although this was an improvement over fiscal year 1994, PTO recognized the work performed did not provide for statements that could be subject to our audit procedures. For fiscal year 1996, PTO again hired a contractor to assist in the preparation of combining statements for presentation in supplemental information. However, PTO decided to limit the presentation to the Statement of Operations and Changes in Net Position until they are more confident in the allocation process. However, because the Statement of Financial Position was not allocated, certain expenses could not be broken out on the Statement of Operations and Changes in Net Position.

Although the presentation of combining statements is not specifically required by OMB 94-01, *Form and Content of Agency Financial Statements*, for fiscal year 1996, the importance of proper allocations of costs and expenses to respective lines of businesses is heightened by pending proposals for PTO to become a government corporation. As a government corporation, proposed legislation would require PTO to develop fee schedules for various services, which would include allocations for general and administrative costs. Furthermore, presenting certain financial statements by line of business will provide users of these statements a better understanding of the organization and more meaningful information on the source and use of funds.

We have reviewed our findings and recommendations with PTO's financial management and have incorporated their comments as appropriate. Management concurs with our findings and recommendations and will provide an audit action plan in accordance with applicable directives of the Department of Commerce.

We also noted other matters involving the internal control structure and its operation that we have reported to PTO's Associate Commissioner and Chief Financial Officer in a separate letter dated January 21, 1997.

Inspector General's Report

*Audit of the Patent and Trademark
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as of September 30, 1996 and 1995*

This report is intended for the information of management of PTO, Department of Commerce management, and the Office of Management and Budget. This restriction is not intended to limit the distribution of this report, which is a matter of public record.



Frank DeGeorge
Inspector General

January 21, 1997

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INSPECTOR GENERAL'S REPORT ON COMPLIANCE WITH LAWS AND REGULATIONS

Mr. Bruce A. Lehman
Assistant Secretary of Commerce and
Commissioner of Patents and Trademarks
Patent and Trademark Office
Washington, D.C.

We have audited the Statement of Financial Position of the Patent and Trademark Office (PTO) as of September 30, 1996, and the Statements of Operations and Changes in Net Position, and Cash Flows for the year then ended and have issued our report thereon dated January 21, 1997.

We conducted our audits in accordance with generally accepted auditing standards; *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget Bulletin No. 93-06, *Audits of Federal Financial Statements*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements.

Compliance with laws and regulations applicable to PTO is the responsibility of PTO's management. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatements, we tested compliance with those laws and regulations directly affecting the financial statements and certain other laws and regulations designated by the Office of Management and Budget and PTO. As part of our audit, we also obtained an understanding of management's process for evaluating and reporting on internal control and accounting systems as required by the Federal Managers' Financial Integrity Act (FMFIA) and compared the material weaknesses reported in PTO's FMFIA report that relate to the financial statements under audit to the material weaknesses and other reportable conditions found during the evaluation we conducted of PTO's internal control system. However, our objective was not to provide an opinion on overall compliance with such provisions.

We noted two instances of immaterial noncompliance that we have reported to management of PTO in a separate letter dated January 21, 1997.

Inspector General's Report

*Audit of the Patent and Trademark
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as of September 30, 1996 and 1995*

This report is intended for the information of the management of PTO, Department of Commerce management, and the Office of Management and Budget. This restriction is not intended to limit the distribution of this report, which is a matter of public record.



Frank DeGeorge
Inspector General

January 21, 1997

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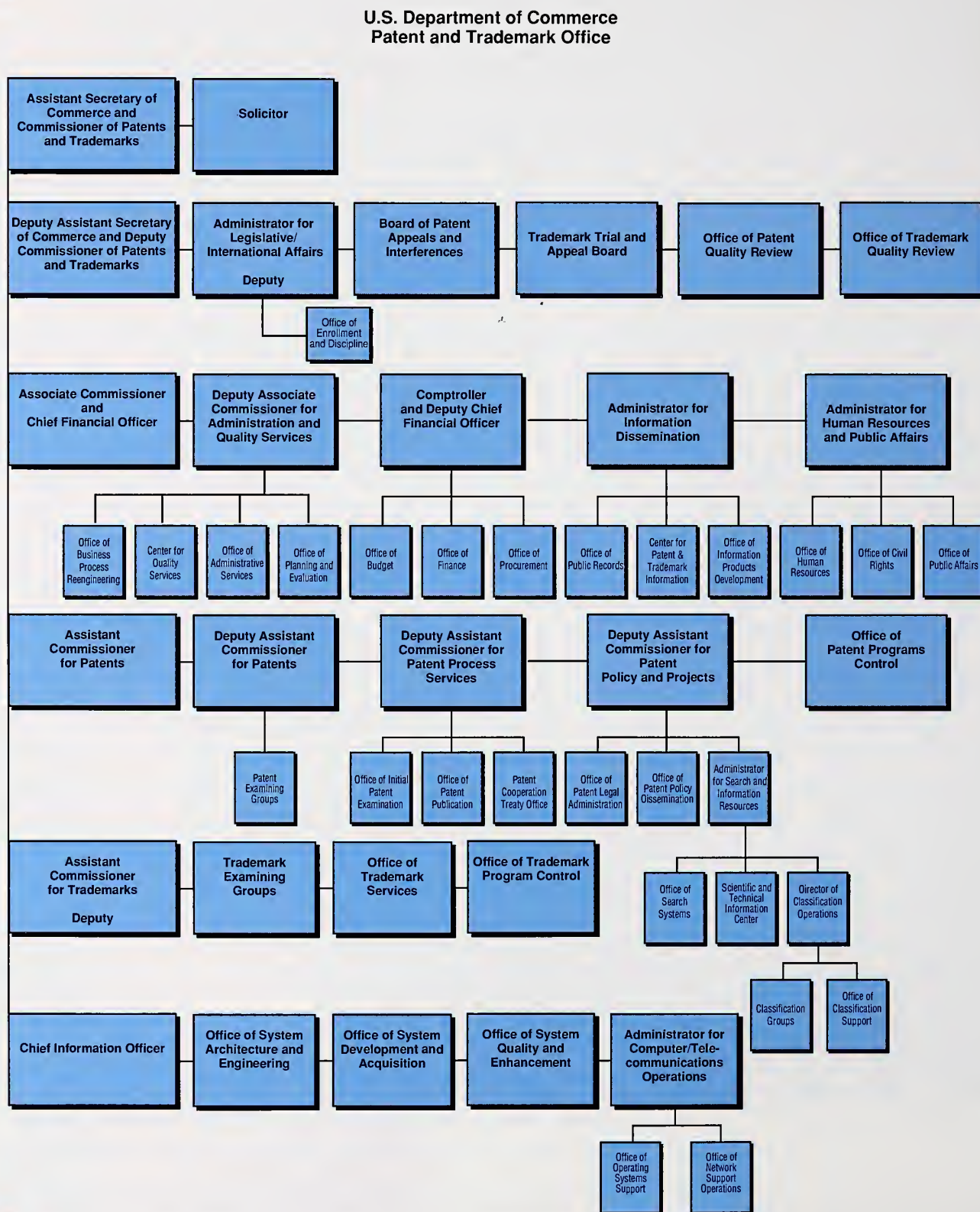
Additional Information

(Unaudited)



Additional Information

Organizational Chart



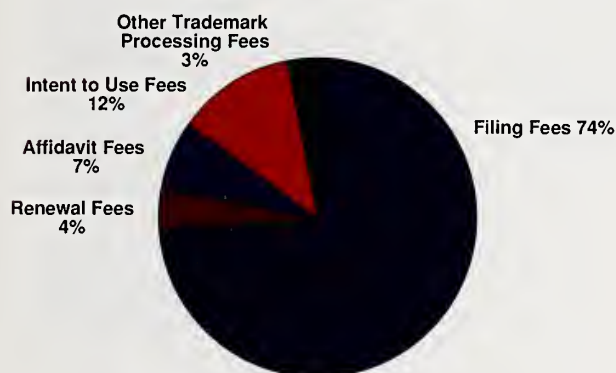
Additional Information

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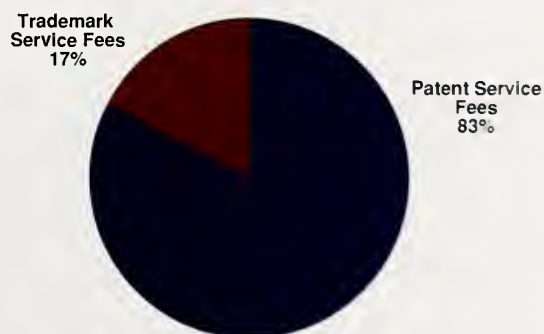
U.S. Department of Commerce Patent and Trademark Office 1996 Fee Collection by Category

Patent Fee Collections	571,656,495	85.9%
Trademark Fee Collections	68,175,445	10.3%
Other Fee Collections	25,341,816	3.8%
PTO Total Fee Collections	665,173,756	100.0%

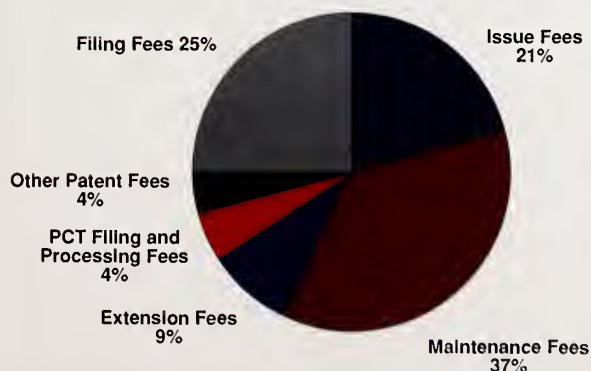
Trademark Fee Collections



Information Dissemination Fee Collections



Patent Fee Collections



Additional Information

**DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
STATEMENT OF OPERATIONS AND CHANGES IN NET POSITION BY PROGRAM
For the year ended September 30, 1996**

	PATENTS	TRADEMARKS	INFORMATION DISSEMINATION	TOTALS
REVENUES AND FINANCING SOURCES				
Revenues from Sales of Goods and Services				
To the Public	\$527,559,590	\$64,105,688	\$23,037,131	\$614,702,409
Intragovernmental	4,217,611	0	0	4,217,611
Appropriated Capital Used	2,280,962	0	0	2,280,962
Total Revenues and Financing Sources	<u>534,058,163</u>	<u>64,105,688</u>	<u>23,037,131</u>	<u>621,200,982</u>
EXPENSES				
Program or Operating Expenses	471,260,137	53,136,717	29,278,837	553,675,691
Depreciation and Amortization	-	-	-	30,658,162
Change in Actuarial Liability	-	-	-	599,399
Total Expenses	<u>471,260,137</u>	<u>53,136,717</u>	<u>29,278,837</u>	<u>584,933,252</u>
Excess of Revenues and Financing Sources Over Total Expenses	<u>62,798,026</u>	<u>10,968,971</u>	<u>(6,241,706)</u>	<u>\$36,267,730</u>
Net Position, Beginning Balance				174,224,335
Excess of Revenues and Financing Sources Over Total Expenses				36,267,730
Decrease in Invested Capital				(2,280,962)
Net Position, Ending Balance				<u>\$208,211,103</u>

The Information Dissemination Organizations (IDO) perform activities which support the PTO mission by providing the public with effective access to patent and trademark information. While IDO provides most of its products and services to the public at prices which recover the costs of dissemination, there are several major IDO activities which do not or cannot recover costs. The IDO organizations, for example, operate the Patent Search Room, the Patent Assignment Search Room, and the Trademark Search Library. By law, the IDO cannot charge fees to the public for the use of these facilities (except for automated tools and services). Instead, costs for these facilities, and similar services provided free of charge to the public, are recovered by Patent and Trademark fees. The PTO is not recommending any change in any of these current procedures.

Since the FY 1996 Statement of Financial Position was not prepared as supplemental information, the related allocation of depreciation and amortization and the change in actuarial liability was not performed. Thus the total expenses and excess of revenues and financing sources over the total expenses do not total across.

Additional Information

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Program/Operating Expenses By Program

For the Year Ended September 30, 1996:

	PATENTS	TRADEMARKS	INFORMATION DISSEMINATION	TOTAL
Operating Expenses by Object Classification				
Personal Services and Benefits	\$284,653,628	\$34,682,407	\$11,456,429	\$330,792,464
Travel and Transportation	1,414,619	208,654	203,202	1,826,475
Rental, Communication and Utilities	43,643,673	5,983,741	2,562,845	52,190,259
Printing and Reproduction	28,511,197	1,778,753	595,121	30,885,071
Contractual Services	73,334,399	6,380,169	13,534,997	93,249,565
Supplies and Materials	7,303,313	711,378	683,852	8,698,543
Equipment not Capitalized	5,768,432	902,659	686,341	7,357,432
Insurance Claims and Indemnities	25,975	3,519	1,556	31,050
Other:				
(a) Other services	5,573,052	654,856	(3,066,995)	3,160,913
(b) Training	5,511,571	596,247	236,790	6,344,608
(c) Maintenance and Repair	15,520,278	1,234,334	2,384,699	19,139,311
Total Expenses By Object Classification	<u>\$471,260,137</u>	<u>\$53,136,717</u>	<u>\$29,278,837</u>	<u>\$553,675,691</u>

Additional Information

Litigation

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During FY 1996, the number of *ex parte* appeals taken from decisions of the Board of Patent Appeals and Interferences, the Trademark Trial and Appeal Board, and the number of civil actions filed against the Commissioner of Patents and Trademarks, totaled 71. There were 33 *inter partes* cases taken to the Federal Circuit in FY 1996. Although there were several significant court decisions, most of the opinions entered by the Court of Appeals for the Federal Circuit and the district courts were not precedential. This section highlights some of the significant rulings of FY 1996.

Re-examination

In *In re Recreative Technologies Corp.*, 83 F.3d 1394, 38 USPQ2d 1776 (Fed. Cir. 1996), the examiner rejected the claims under § 103 for obviousness, based on a single reference to Ota. The Board of Patent Appeals and Interferences ("Board") reversed the § 103 rejection but entered a § 102 rejection for lack of novelty based on Ota. During the original examination of the patent, a rejection under § 103 based on Ota had been overcome by the applicant. Recreative argued that the "PTO had no authority to reject the claims, on reexamination, on the same ground on which the application was examined and the claims allowed during the original prosecution." *Id.* at 1396, 38 USPQ2d at 1777.

The Federal Circuit agreed with Recreative and reversed the Board, holding that "[r]eexamination is barred for questions of patentability that were decided in the original examination." *Id.* at 1398, 38 USPQ2d at 1779. According to the court, once the examiner determined that no new grounds of rejection had been raised, the re-examination

should have been dismissed. *Id.* The court did not reach the question of whether the Board's § 102 rejection based on the same reference was a new ground of rejection. *Id.* at 1399, 38 USPQ2d at 1779.

Chemistry/Biotechnology

In two companion cases that had been pending at the Federal Circuit for more than four years, the court addressed the patentability of known chemical processes for making and/or using unobvious chemical compounds.

In the first to be decided, *In re Ochiai*, 71 F.3d 1565, 37 USPQ2d 1127 (Fed. Cir. 1995), the claimed invention was a chemical process for making a patentable compound using a patentable compound. The PTO rejected the claims under 35 U.S.C. § 103 in view of the combined teachings of six references. The PTO's position was based on several earlier cases, *In re Larsen*, 292 F.2d 531, 130 USPQ 909 (CCPA 1961); *In re Albertson*, 332 F.2d 379, 141 USPQ 730 (CCPA 1964), and *In re Durden*, 763 F.2d 1406, 226 USPQ 359 (Fed. Cir. 1985). The suggestion in these cases was that an otherwise unpatentable process could not be made patentable merely by claiming the making of a patentable compound in the process. The PTO distinguished *In re Pleuddemann*, 910 F.2d 823, 15 USPQ2d 1738 (Fed. Cir. 1990) and other cases, based on its position that these cases were "method of using" rather than "method of making" cases. *Ochiai*, 71 F.3d at 1569, 37 USPQ2d at 1130.

The Federal Circuit reversed. The court found that *Ochiai*'s claimed process is not *prima facie* obvious because the particular acid required was unknown but for *Ochiai*'s disclosure, citing *In re Mancy*, 499 F.2d 1289, 1293, 182 USPQ 303, 306 (CCPA 1974), a case involving highly analogous facts, which

observed that “one cannot choose from the unknown.” According to the court, the mere citation of *Durden* or any other case as a basis for rejecting process claims that differ from the previous art by their use of different starting materials is improper, as it sidesteps the fact-intensive inquiry mandated by § 103.

With reference to the alleged conflict in case law between *inter alia*, *Durden* and *Pleuddemann*, the court acknowledged that “some generalized commentary found in these cases ... may, if viewed in isolation, have inadvertently provided encouragement to those who desire *per se* rules in this area.” *Id.* at 1572, 37 USPQ2d at 1133. Nevertheless, the court continued, the “use of *per se* rules ... flouts section 103 and the fundamental case law applying it.” *Id.* at 1572, 37 USPQ2d at 1133.

In the second of the two companion cases, *In re Brouwer*, 77 F.3d 422, 37 USPQ2d 1663 (Fed. Cir. 1995), the claimed invention was a chemical process for making an unobvious compound. The relevant facts in *Brouwer* were substantially the same as those in *Ochiai*, except the case involved only a “method of making” an unobvious compound and not a “method of using” such a compound. The Federal Circuit again reversed, based on substantially the same reasoning as in *Ochiai*.

Note: 35 U.S.C. § 103(b) (effective November 1, 1995, shortly before these two cases were decided) precludes rejection of process claims that involve the making or using of certain biotechnological compositions.

Hatch-Waxman Act

In *Merck & Co. v. Kessler*, Civil Action No. 95-1005-A (E.D. Va. Oct. 16, 1995), affirmed in part, reversed in part, 80 F.3d 1543, 38 USPQ2d 1347 (Fed. Cir. 1996), the U.S.

District Court for the Eastern District of Virginia rejected the PTO’s interpretation of the relationship between the Uruguay Round Agreements Act (URAA) (35 U.S.C. § 154) and the Hatch-Waxman Act (35 U.S.C. § 156). The URAA requires that patents in force on June 8, 1995, receive the longer term of 20 years from filing or 17 years from the date of grant. Hatch-Waxman patent term extensions are required by law to be added to the “original expiration date.” 35 U.S.C. § 156(a). The PTO had determined that the patent term extensions should be added to the expiration date that was originally determined at issue, not to the new expiration date resulting from the enactment of the URAA. The district court disagreed.

The Department of Justice appealed the decision to the Federal Circuit on behalf of the PTO. The Federal Circuit affirmed in part and reversed in part, holding “patents that were in force on June 8, 1995, only because of a Hatch-Waxman extension are not entitled to reapply a restoration extension to a 20-year from filing term. Except for those patents, a patent in force on June 8, 1995, is entitled to have a restoration extension, whenever granted, added to the longer term of either 17 years from issuance or 20 years from filing.” *Id.* at 1553, 38 USPQ2d at 1354. The Federal Circuit also determined that the PTO was not entitled to deference with respect to its interpretation of 35 U.S.C. § 156. Justice, on behalf of PTO, requested an *in banc* rehearing of the case. That request was denied.

The PTO did not seek certiorari of the case; however, two parties have requested certiorari. Their basis is that even patents that were in force on June 8, 1995, solely due to an extension granted under the Hatch-Waxman Act should receive an “original expiration date” that is the longer of 17 years from patent issue or 20 years from filing.

Additional Information

FY 1996 Government Performance and Results Act (GPRA) Pilot Project Final Report

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In FY 1994, the PTO elected to seek to participate in the first round of pilot projects for the newly enacted Government Performance and Results Act of 1993. PTO's decision to participate in the GPRA pilot test program stemmed from its historical experience in monitoring major program performance through performance measurements, and its many customer outreach efforts to gather feedback and comments on the PTO's performance. Customer satisfaction undertakings at the PTO included Total Quality Management efforts that won the Public Services and Administration division of the PTO the Department of Commerce Quality Award in 1991, and the Federal Quality Improvement Prototype Award (Federal equivalent of the Baldrige award for private industry) in 1992. In 1995, the entire PTO won the Department of Commerce Customer Service Excellence Award. The PTO's continuous commitment to improve customer satisfaction and delivery of its products and services, coupled with performance monitoring experience, enabled it to take full advantage of additional performance management tools (performance planning and performance reporting) available under the auspices of the GPRA pilot project.

As a participant in the GPRA project, the PTO has test-piloted three of the five components of GPRA: annual performance plans, annual performance reports, and managerial flexibility and accountability waivers. Since FY 1995, the PTO has submitted three performance plans and two performance reports to the Office of Management and Budget. In FY 1996, the PTO sought and was granted managerial flexibility and accountability

waivers. However, simultaneous revisions of Federal administrative and procedural regulations such as the OMB Circular A-76 (Performance of Commercial Activities) and Federal Acquisition Reform Act of 1995 negated any benefits PTO may have derived from testing this phase of the pilot project.

As one of the early participants in the GPRA pilot project, the PTO has had the opportunity to re-examine, explore, and create performance measurements that are more aligned with agency mission and strategic goals and that provide a more balanced assessment of program performance. Assessing major program performance in areas other than input and output allowed the PTO to look at the result or outcome of its efforts and to monitor performance from all perspectives (e.g., customer and employee satisfaction, effectiveness, efficiency, innovation and quality). The Office has also evaluated private and public leaders in performance measurement data collecting, monitoring, and evaluating systems to use in improving the overall performance management system at the PTO.

Final FY 96 GPRA Performance Report

..... *PTO Major Program Performance Goals:*

- Decrease patent pendency and maintain financial self-sufficiency.
- Decrease trademark pendency and maintain financial self-sufficiency.
- Engage in business-like partnerships with Patent and Trademark Depository Libraries tailored to the industry base of regional industrial areas, and increase the number of PTDLs throughout the nation.
- Conduct customer focus group sessions and surveys of individual users, internal customers, law and intellectual property associations, and other stakeholders.

Patent Business Area Program Performance Goal: Decrease patent pendency and maintain financial self-sufficiency.

The Patent business area maintained 100 percent financial self-sufficiency in FY 1996; however, operational issues such as a steady increase in the average number of patent applications received, a reduction in overtime, and insufficient funds to hire as many new examiners as planned, continue to impede the business area's ability to achieve targeted pendency goals. The most needed resource for the Patent business area to achieve its business goals are FTEs. The lack of sufficient patent examiners to examine applications is a major impediment for the Patent business area to achieve its pendency goals. During FY 1996, the Patent business area applied several corporate foundation strategies to enhance its patent process and to move the business toward improved performance. These strategies include, but were not limited to *Enhancing Human Resources, Leveraging Information Technologies, and Employing Better Processes*. Despite deploying innovative approaches such as business process re-engineering to current processes, the performance targets for the Patent business area were not met in FY 1996. External impediments to achieving FY 1996 goals included the implementation of legislation for GATT, which changed the term of patents from 17 years from the date of grant to 20 years from the date of filing. This change resulted in the filing, before the legislation's effective date, of approximately 29,000 additional applications over plan in FY 1995. The Patent business area projects that new and innovative approaches to current processes will realize significant improvement in the overall performance within the Patent business area.

Processes:

1. Enhance human resources.
2. Leverage information technologies.
3. Employ better processes.

Additional Information

Verification and Validation:

- Patent program managers will use automated systems for tracking and monitoring all patent applications.
- PTO managers will monitor performance through the use of monthly Executive Information System (EIS) reports and analysis.

Performance Indicators:

	1989 Baseline	1994 Actual	1995 Actual	1996 Target	1996 Actual
Financial self-sufficiency (percentage)	70.26	100	100	100	100
Months to issue or abandonment	18.4	19.0	19.2	19.0	20.8
Months from filing to first action notice	7.3	7.7	8.4	8.1	10.5

Impediments:

- Applications (or inputs) are subject to economic and political changes in the United States and abroad.
- Application examination times are subject to technical complexity of applications, examiner experience, response time of applicants to office actions, and number of patent examiners available for examining.

Trademark Business Area Program Performance Goal: Decrease trademark pendency and maintain financial self-sufficiency.

The Trademark business area continued to maintain 100 percent financial self-sufficiency in FY 1996; however, a steady increase in the receipt of trademark applications and insufficient staff to process incoming workload continued to impede the business area's ability to achieve targeted pendency goals. The Trademark business area predicted two factors would impede its ability to achieve targeted performance goals: 1) applications are subject to economic and political changes in the United States and abroad, and 2) application examination times are subject to technical complexity of applications, examiner experience, response time of applicants to office actions, and the number of trademark examiners available for examining. Since the implementation of the Trademark Law Revision Act (TLRA) in 1990, which established intent to use (ITU) as a basis for filing, annual increases in filings have averaged eight percent, and have averaged over 12 percent since FY 1992. Applications filed under TLRA have increased as a proportion of total filings to nearly 60 percent of all applications; unfortunately, human resource levels have been insufficient to keep pace with customer demand, causing pendency to

rise continually above plan. While the Trademark business area is applying several corporate foundation strategies, *Enhancing Human Resources, Leveraging Information Technologies, and Employing Better Processes*, to enhance its process and to move the business toward improved performance, the greatest potential for performance improvement will come from reducing or eliminating the number of processing activities in the current production process.

Processes:

1. Enhance human resources.
2. Leverage information technologies.
3. Employ better processes.

Verification and Validation:

- Trademark program managers will use automated systems for tracking and monitoring all trademark applications.
- PTO managers will monitor performance through the use of monthly Executive Information System (EIS) reports and analysis.

Performance Indicators:

	1989 Baseline	1994 Actual	1995 Actual	1996 Target	1996 Actual
Financial self-sufficiency (percent)	100	100	100	100	100
Months to issue or abandonment	13.8	16.3	16.7	13.9	16.5
Months from filing to first action notice	2.8	5.2	5.3	3.0	5.9

Impediments:

- Applications (or inputs) are subject to economic and political changes in the United States and abroad.
- Application examination times are subject to technical complexity of applications, examiner experience, response time of applicants to office actions, and the number of trademark examiners available for examining.

Additional Information

Information Dissemination Business Area Program Performance Goal: Engage in business-like partnerships with Patent and Trademark Depository Libraries tailored to the industry base of regional industrial areas and increase the number of PTDLs throughout the nation.

The Information Dissemination (IDO) business area continues to investigate ways to provide increased access to patent and trademark information, including the expansion of the PTDL library network. While the total number of libraries participating in the PTDL program has remained constant at 80, two libraries have dropped out and two libraries joined the program. While we continue to explore PTDL designation with various libraries throughout the United States, the decision to participate ultimately rests with the library administration.

The PTO has entered into business partnerships with two libraries to provide enhanced services tailored to meet the needs of local citizens and businesses in these regions. It has been our intent to evaluate the effectiveness of the current pilot business partnerships in FY 1996 before expanding further.

A formal program evaluation of the first partnership in Sunnyvale, California, was held in January 1996, and a marketing plan was formulated to address underused services. The Great Lakes Patent and Trademark Center of the Detroit Public Library in Detroit, Michigan, became operational in November 1995. A formal program evaluation will occur in the first quarter of FY 1997.

Processes:

1. Internal PTO approval of partnership agreements;
2. External acceptance of two partnership proposals;
3. Partnership agreement with the cities of Sunnyvale, CA, and Detroit, MI; and
4. Development of partnership performance measurements.

Verification and Validation:

- PTO Business Council will review periodically.
- Review partnership agreement for compliance.

Additional Information

Performance Indicators:

	1994 Actual	1995 Actual	1996 Target	1996 Actual
PTDLs	78	81	85	80
States in which PTDLs are established	49	49	50	49 plus the District of Columbia and Puerto Rico
Business Partnerships		0	2	42

Customer Service Program Performance Goal: To conduct customer focus group sessions and surveys of individual users, internal customers, law and intellectual property associations, and other stakeholders.

Processes:

1. Identify customers.
2. Take random sampling.
3. Conduct customer focus sessions (CFS).
4. Develop customer service standards based on CFS.
5. Disseminate standards to process owners, Partnership Auxiliary Committees (PACs), and Joint Partnership Council (JPC).
6. Publish customer service standards for customers.
7. Develop and conduct surveys to validate standards.

Conduct More CFS:

- Disseminate data from surveys/CFS to process owners, PACs, and JPC for review and development.
- Make budget decisions to meet customer needs.
- Incorporate in budget request (PTO Corporate Plan).

Additional Information

Verification and Validation:

- Analysis of customer service survey and focus group results by the PTO Business Council, PTO Union Partnership Council, and program managers.
- Center for Quality Services will continually assess customer satisfaction levels.

Performance Indicators:

	1996 Target PTO	1996 Actual PTO	1995 Actual PTO	1996 Target Patents	1996 Actual Patents	1995 Actual Patents	1996 Target TMs	1996 Actual TMs	1995 Actual TMs	1996 Target IDO	1996 Actual IDO	1995 Actual IDO
Customer satisfaction external surveys conducted	12	3	3	5	2	2	5	1	1	2	0 ¹	0
External focus group sessions conducted	22	0 ²	26	10	0	9	10	0	10	2	0	7
Customers surveyed satisfied with PTO's overall performance (percent)	100	68	57.2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Level of customers satisfied with PTO's established pendency level ³	N/A	N/A	N/A	5	3	3.2	5	2.9	2.9	N/A	N/A	N/A

¹ Baseline surveys to be conducted October 1996 - March 1997.

² Data from 1994 and 1995 focus sessions (along with survey data) are sufficient to continue re-engineering and process improvement efforts.

³ Based on a scale of 1-5 (Issuance of product in a timely manner).
N/A - target not established.

Glossaries

..... *Glossary of Office-Specific Terms*

Allowance: examiners determine whether a patent can be allowed by searching previous art, which includes previously issued U.S. and foreign patents and nonpatent literature to help determine whether the claimed invention complies with the patent statutes and court decisions.

Patent Application: a request from a user for a patent to be granted by the United States Patent and Trademark Office.

Patent Application, Disposed (Disposal): patent examiner completes action on the application.

Patent Application, Examined: to determine the qualifications of patent applications requesting the granting of patents. To determine whether the invention is new, useful, and nonobvious to someone knowledgeable in the subject matter.

Patent Application, Issued (Issuance): patent application issued or granted as a patent.

Patent Application, Withdrawal (Abandoned): to surrender one's claim or right to a request for a patent to be granted.

Patent Pendency: average time in months from filing to either issuance or abandonment.

Trademark: a word, phrase, symbol, design, or combination thereof that identifies and distinguishes the source of goods or services of one party from that of another.

Trademark Application: application for Federal registration of a mark filed at the United States Patent and Trademark Office.

Trademark Application, Abandoned: termination of examination for failure to respond to an examination letter, because of a judicial decision, or by request of applicant.

Trademark Application, Disposed: an application that is registered or abandoned.

Trademark Application, Examined: review of application for compliance with the Trademark Act.

Trademark Application, Registration: issuance of a certificate of registration by the United States Patent and Trademark Office.

Trademark Pendency: average time in months from filing an application to mailing the first examination letter, and average time in months from filing to registration, issuing a notice of allowance, or abandonment.

Additional Information

Glossary of Budget and Accounting Terms and Definitions

Account: something for which appropriations are made in an appropriations act. For spending that is not provided in an appropriations act, an account is an item for which there is a designated budget account identification number in the President's budget.

Accounts Payable: amounts owed to an account other than your own for goods and services purchases. Such amounts include disbursements owed to others.

Accounts Receivable: amounts owed to an account for goods furnished and services rendered. Such amounts include reimbursements earned and refunds receivable.

Appropriation: an act of Congress that allows Federal agencies to incur obligations and make payments from the Treasury for specified purposes. An appropriation is the most common means of providing budget authority and usually follows the passage of an authorization bill.

Authorization (Authorizing Legislation): an act of Congress that establishes or continues a Federal program or agency either for a specified period of time or indefinitely, specifies its general goals and conduct, and usually sets a ceiling on the amount of budget authority that can be provided in an annual appropriation. An authorization for an agency or program usually is required before an appropriation for that same agency or program can be passed.

Budget Authority: the authority granted to a Federal agency in an appropriations bill to enter into commitments that result in immediate or future spending. Budget authority is not necessarily the amount of money an agency or department actually will spend during a fiscal year, but merely the upper limit on the amount of new spending commitments it can make.

The three basic types of budget authority are appropriations, borrowing authority, and contract authority.

Budget Receipts: amounts received by the Federal Government from the public that arise from:

- the exercise of governmental or sovereign power (consisting primarily of tax revenues, but also including receipts from premiums of compulsory social insurance programs, court fines, certain license fees, and the like);
- premiums from voluntary participants in Federal and social insurance programs (such as deposits by States for unemployment insurance and for Social Security for their employees) that are closely related to compulsory social insurance programs; and
- gifts and contributions.

Excluded from budget receipts are offsetting receipts, which are counted as deductions from budget authority and outlays rather than as budget receipts.

Carryover: the unobligated amounts at the end of a fiscal year for unexpired accounts.

Cash Basis of Accounting: a method of accounting in which revenue is recognized at the time the payment is received and costs are considered incurred at the time the payment is made.

Collections: any monies received by the government. Depending upon the nature of the transaction, collections may be treated as budget receipts, offsetting receipts, refunds, or credits to a deposit fund.

Deobligation: a downward adjustment of previously recorded obligations. This may be attributed to cancellation of a project or contract, price revision, or corrections of amounts previously recorded as obligations.

Deposit Funds: accounts established to facilitate the accounting for collections that are either (a) held in suspense temporarily and later refunded or paid into some other fund of the government upon administrative or legal determination as to the proper disposition thereof or (b) held by the government as banker or agent for others and paid out at the discretion of the depositor.

Expended Appropriation: the amount of expenditures (outlays) during the current fiscal year net of refunds to the appropriation made from general funds, special funds, and trust funds.

Expenditure: actual spending, generally interchangeable with outlays.

Fiscal Year (FY): any yearly accounting period. The fiscal year for the Federal Government begins October 1 and ends on September 30.

Intragovernmental Revolving Fund

Account: funds authorized by law to carry out a cycle of intragovernmental business-type operations. These funds are credited with offsetting collections from other agencies and accounts.

Liability: accounts owed for items received, services rendered, expenses incurred, assets acquired, construction performed, and amounts received but not as yet earned.

Obligated Balance: the amount of obligations already incurred for which payment has not yet been made. This balance can be carried forward indefinitely until the obligations are paid.

Obligations: spending commitments by the Federal Government that will require outlays either immediately or in the future.

Offsetting Collections: money received by the government as a result of business-type transactions with the public (sale of goods and services) or as a result of a payment from one government account to another. If credit-

ed to an agency's expenditure account, the offsetting collection is usually available for spending by the agency.

Offsetting Receipts: an offsetting collection that is deducted from budget authority and outlays when calculating total budget authority and outlays for the Federal Government. Offsetting receipts are generally not available for spending by an agency without further Congressional action.

Receipt Accounts: accounts established for recording collections deposited into the Treasury for appropriation by the Congress. These accounts may be classified by the Congress.

Reimbursements: sums received by the government for commodities sold or services furnished either to the public or to other government accounts that are authorized by law to be credited directly to specific appropriation and fund accounts. These amounts are deducted from the total obligations incurred (and outlays) in determining net obligations (and outlays) for such accounts.

Unexpended Balance: the amount of budget authority unspent and still available for conversion into outlays in the future; the sum of the obligated and unobligated balances.

Unobligated Balance: the portion of budget authority that has not yet been obligated. In one-year accounts the unobligated balance expires (ceases to be available for obligation) at the end of the fiscal year. In multiple-year accounts, the unobligated balance may be carried forward and remain available for obligation for the period specified. In no-year accounts, the unobligated balance is carried forward indefinitely until specifically rescinded by law or until the purposes for which it was provided have been accomplished.

Additional Information

Table 1.
Summary of Patent Examining Activities
(As of September 30 of each fiscal year)

Patent examining activity	1992	1993	1994	1995	1996
APPLICATIONS FILED					
Total	185,446	188,099	201,554	236,679	206,276
Utility ¹	171,623	173,619	185,087	220,141	189,979
Reissue	581	572	430	647	573
Plant	335	362	606	516	564
Design	12,907	13,546	15,431	15,375	15,160
FIRST ACTIONS					
Design	16,076	16,074	16,832	18,223	15,465
Utility, plant, and reissue	165,294	171,799	168,722	176,220	179,391
PCT/Chapter 1	7,247	7,459	8,363	9,454	11,224
APPLICATION DISPOSALS					
Total	178,426	181,741	189,646	189,520	197,244
Allowed², total	114,106	116,151	119,609	119,621	135,321
Design	11,013	11,800	12,388	13,055	13,627
Utility, plant, and reissue	103,093	104,351	107,221	106,566	121,694
Abandoned, total	64,042	65,444	69,909	69,796	61,819
Design	4,843	4,681	4,977	3,336	3,461
Utility, plant, and reissue	59,199	60,763	64,932	66,460	58,358
Statutory invention registrations, total	278	146	128	103	104
PCT/Chapter II examinations completed	5,010	5,851	6,918	8,040	8,403
PATENTS ISSUED³					
Total	109,728	107,332	113,268	114,241	116,875
Utility	99,405	96,676	101,270	101,895	104,900
Reissue	375	302	347	294	291
Plant	336	408	513	390	338
Design	9,612	9,946	11,138	11,662	11,346
Allowed applications, issue fee not paid ⁴	4,781	5,778	5,883	5,294	5,408
Pendency time of average patent application ⁵	19.1	19.5	19.0	19.2	20.8
Reexaminations requested ⁶	392	359	379	392	418
Reexamination certificates issued ⁶	243	293	309	281	298
PCT search reports prepared ⁷	6,586	8,714	10,813	10,440	11,078
PCT international applications received by USPTO as receiving office ⁷	10,929	12,389	14,265	15,941	20,106
National requirements received by USPTO as receiving office ^{7,8}	6,835	7,441	9,076	10,582	11,662
International preliminary examination reports	4,678	5,955	8,005	7,456	7,571
Patents renewed under P.L. 102-204 ⁹	107,713	114,367	121,104	140,512	408,944
Patents expired under P.L. 102-204 ⁹	28,603	38,475	38,859	48,604	60,392

¹Chemical, electrical, and mechanical applications.

²"Allowed Patent Applications" are applications awaiting issuance (i.e., publication) as patents.

³Excludes withdrawn numbers.

⁴35 U.S.C. 151 (includes design applications).

⁵Average time (months) between filing and issuance/abandonment of utility, plant, and reissue applications (excluding designs).

⁶Reexamination was instituted on July 1, 1981, in accordance with provisions of P.L. 96-517.

⁷PCT entered into force on January 24, 1978, and applications were accepted for filing beginning June 1, 1978.

⁸FY 1994 "National requirements received by USPTO as receiving office" data corrected from 8,778 to 9,076.

⁹Renewal of patents under P.L. 96-517 and P.L. 97-247 now superseded by P.L. 102-204.

Table 2.
Patent Applications Filed
(FY 1976 - FY 1996)

Year	Utility ¹	Design	Plant	Reissue	Total
1976 ²	101,807	6,838	144	438	109,227
1977 ²	101,821	7,186	202	564	109,773
1978	100,473	7,440	171	660	108,744
1979	99,516	7,070	166	657	107,409
1980	104,219	7,269	186	641	112,315
1981	106,828	7,197	147	538	114,710
1982	116,052	8,069	193	486	124,800
1983	96,847	8,256	231	370	105,704
1984	109,010	8,446	248	281	117,985
1985	115,893	9,504	244	290	125,931
1986	120,988	9,792	291	332	131,403
1987	125,677	10,766	364	366	137,173
1988	136,253	11,114	377	439	148,183
1989	150,418	11,975	418	495	163,306
1990	162,708	11,140	395	468	174,711
1991	166,765	10,368	414	536	178,083
1992	171,623	12,907	335	581	185,446
1993	173,619	13,546	362	572	188,099
1994	185,087	15,431	430	606	201,554
1995	220,141	15,375	516	647	236,679
1996	189,979	15,160	564	573	206,276

¹Chemical, electrical, and mechanical applications.

²The transition quarter, July 1, 1976, to September 30, 1976, has been omitted.

Table 3.
Summary of Pending Patent Applications
(As of September 30, 1996)

Stage of processing	Utility, plant, and reissue applications	Design applications	Total patent applications
Pending patent applications, total	359,431	19,633	379,064
In preexamination processing, total	28,985	943	29,928
Under examination, total	263,134	10,658	273,792
Awaiting first action by examiner	111,747	4,359	116,106
Rejected, awaiting response by applicant	111,523	4,514	116,037
Amended, awaiting action by examiner	23,292	545	23,837
In interference	1,598	19	1,617
On appeal and other ¹	14,974	1,221	16,195
In postexamination processing, total	67,312	8,032	75,344
Awaiting issue fee	33,732	5,960	39,692
Awaiting printing ²	30,143	2,072	32,215
D-10s (secret cases in condition for allowance)	3,437	-	3,437

- Represents zero.

¹Includes cases on appeal and undergoing petitions.

²Includes withdrawn cases.

Additional Information

Table 4.
Patents Pending Prior to Allowance¹
(FY 1976 - FY 1996)

Year	Awaiting action by examiner	Total applications pending ²
1976 ³	43,776	142,379
1977 ³	60,706	144,542
1978	57,031	144,056
1979	50,085	151,702
1980	64,289	167,533
1981	71,033	181,727
1982	87,659	216,509
1983	102,532	223,101
1984	90,687	219,567
1985	90,648	215,512
1986	80,547	207,774
1987	65,010	209,911
1988	75,678	215,280
1989	92,377	222,755
1990	104,179	244,964
1991	104,086	254,507
1992	112,201	269,596
1993	99,904	244,646
1994	107,824	261,249
1995	124,275	298,522
1996	139,943	303,720

¹Pending at end of period indicated including utility, reissue, plant, and design applications. Does not include allowed applications.

²Applications under examination, including those in preexamination processing.

³The transition quarter, July 1, 1976, to September 30, 1976, has been omitted.

Table 5.
Patents Issued¹
(FY 1976 - FY 1996)

Year	Utility ²	Design	Plant	Reissue	Total
1976 ³	75,325	4,781	195	434	⁴ 80,735
1977 ³	67,972	4,261	164	435	72,832
1978	65,963	3,797	194	366	70,320
1979	51,686	3,269	151	312	55,418
1980	56,618	4,167	137	305	61,227
1981	66,617	3,882	168	343	71,010
1982	59,449	5,299	120	284	65,152
1983	54,744	4,401	219	351	59,715
1984	66,753	4,935	174	287	72,149
1985	69,667	5,058	277	300	75,302
1986	71,301	5,202	227	263	76,993
1987	82,141	6,158	240	254	88,793
1988	77,317	5,740	283	244	83,584
1989	95,831	5,844	728	309	102,712
1990	88,974	7,176	295	282	96,727
1991	91,822	9,386	318	334	101,860
1992	99,405	9,612	336	375	109,728
1993	96,676	9,946	408	302	107,332
1994	101,270	11,138	513	347	113,268
1995	101,895	11,662	390	294	114,241
1996	104,900	11,346	338	291	116,875

¹Excludes withdrawn numbers beginning with FY 1978.

²Chemical, electrical, and mechanical applications.

³The transition quarter, July 1, 1976, to September 30, 1976, has been omitted.

⁴In 1976, under the trial voluntary protest program (now abolished), an additional 1,303 applications were published but not issued.

Table 6.
Statutory Invention Registrations (SIRs)
Published¹

(FY 1992 - FY 1996)

Assignee	1992	1993	1994	1995	1996
Total	140	124	124	130	104
Agriculture	1	-	-	-	-
Air Force	9	7	6	6	6
Army	25	26	21	20	16
Energy	11	9	6	6	2
HEW/HHS	-	-	-	-	-
Navy	20	13	14	17	9
TVA	3	-	-	-	-
USA ²	6	2	3	4	5
Other than U.S. Government	65	67	74	77	66

- Represents zero.

¹Pre-FY 1996 counts have been changed to incorporate corrected data.

²United States of America-no agency indicated in database.

Table 7.
Reexamination¹

(FY 1992 - FY 1996)

Activity	1992	1993	1994	1995	1996
Requests filed, total	392	359	379	392	418
By patent owner	167	147	150	138	194
By third party	168	211	227	253	223
Commissioner-ordered	57	1	2	1	1
Determinations on requests, total	346	350	370	398	414
Requests granted					
By examiner	316	311	334	372	386
By petition	5	10	6	-	8
Requests denied	25	29	30	26	20
Requests known to have related litigation	47	75	77	100	89
Court-ordered reexaminations	-	-	-	-	-
Average age of patents (years)	5.0	5.0	(³)	(⁴)	(⁵)
Average range of patents (years)	0.0-18.1	(²)	(³)	(⁴)	(⁵)
Average claims per request	15.4	(²)	(³)	(⁴)	(⁵)
Average references per request	9.4	9.5	9.6	(⁴)	(⁵)
Filings by discipline, total	392	359	379	392	418
Chemical	101	111	102	101	127
Electrical	186	138	146	131	127
Mechanical	105	110	131	160	164

- Represents zero.

¹Reexamination was instituted on July 1, 1981, in accordance with provisions of P.L. 96-517.

²Data for FY 1993 was not available.

³Data for FY 1994 was not available.

⁴Data for FY 1995 was not available.

⁵Data for FY 1996 was not available.

Additional Information

Table 8.
Summary of Contested Patent Cases
 (Within the Patent and Trademark Office)

Item	Total
Ex parte cases, total	9,672
Appeals ¹ :	
Cases pending as of 9/30/95	5,533
Cases filed during FY 1996	4,139
Disposals during FY 1996, total	3,167
Decided, total	2,119
Affirmed	1,066
Affirmed-in-part	289
Reversed	764
Other disposals, total	1,048
Dismissed/withdrawn	141
Remanded	907
Cases pending as of 9/30/96	6,505
Reconsiderations:	
Cases pending as of 9/30/96	9
Inter partes cases, total	427
Cases pending as of 9/30/95	334
Cases declared or reinstituted during FY 1996	93
Disposals during FY 1996, total terminated	151
Cases pending as of 9/30/96, total	276
Cases awaiting final board disposition as of 9/30/96, total	77
Awaiting the setting of a final hearing	30
Set for final hearing	9
Awaiting a final decision	38

¹Jurisdiction of an appeal passes to the Board of Patent Appeals and Interferences after the examiner has written his answer and after the time for filing a reply brief to the answer has passed.

Table 9.
U.S. Government Agency Patents¹
(FY 1986 - FY 1996)

Agency	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	Total
Total	1,053	1,036	791	837	897	1,137	1,185	1,153	1,225	1,135	921	11,370
Agriculture	27	36	37	36	44	52	48	57	38	44	48	467
Air Force	178	192	134	131	107	126	138	126	130	104	101	1,467
Army	202	176	116	146	145	129	172	147	194	163	138	1,728
Commerce	7	11	13	6	9	15	17	21	28	35	22	184
Energy	260	241	231	216	203	218	218	193	201	146	60	2,187
EPA	2	1	1	3	5	5	4	7	5	4	7	44
FCC	-	-	-	-	-	-	-	-	-	-	-	-
HEW/HHS	30	32	32	31	35	46	67	88	99	96	110	666
Interior	16	10	11	9	8	14	23	9	10	13	20	143
Library of Congress	-	-	-	-	-	-	-	-	-	1	1	2
NASA	109	117	100	125	125	124	166	155	148	157	102	1,428
Navy	207	207	104	117	200	384	314	333	360	352	299	2,877
NSA	2	1	4	5	2	3	3	5	6	4	3	38
Postal Service	-	1	-	-	-	1	-	-	-	1	1	4
State Department	-	-	-	-	-	-	-	-	-	1	-	1
Transportation	3	1	-	-	-	2	-	2	1	-	-	9
Treasury	-	-	-	-	-	-	-	-	-	-	-	-
TVA	9	8	7	4	9	8	5	1	2	5	4	62
USA ²	-	1	1	8	5	10	10	9	3	9	5	61
VA	1	1	-	-	-	-	-	-	-	-	-	2

- Represents zero.

¹Data in this table represent utility patents assigned to agencies at the time of patent issue. Pre-FY 1996 counts have been changed to incorporate corrected data.

²United States of America - no agency indicated in database.

Table 10.
Patent Applications Filed by Residents of the United States
(FY 1996)

State/territory	1996	State/territory	1996	State/territory	1996
Total	116,336	Kentucky	567	Oklahoma	724
Alabama	563	Louisiana	738	Oregon	1,826
Alaska	132	Maine	188	Pennsylvania	4,414
Arizona	2,192	Maryland	1,908	Rhode Island	486
Arkansas	254	Massachusetts	4,716	South Carolina	825
California	23,082	Michigan	4,741	South Dakota	97
Colorado	2,483	Minnesota	3,618	Tennessee	1,168
Connecticut	2,433	Mississippi	284	Texas	7,784
Delaware	538	Missouri	1,376	Utah	1,079
District of Columbia	109	Montana	174	Vermont	424
Florida	4,256	Nebraska	321	Virginia	1,541
Georgia	1,937	Nevada	523	Washington	2,638
Hawaii	165	New Hampshire	837	West Virginia	246
Idaho	1,282	New Jersey	5,439	Wisconsin	2,348
Illinois	5,567	New Mexico	437	Wyoming	85
Indiana	1,830	New York	8,733	Puerto Rico	23
Iowa	863	North Carolina	2,454	Virgin Islands	2
Kansas	536	North Dakota	109	U.S. Pacific Islands ¹	10
		Ohio	5,216	United States ²	15

¹Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

²No State indicated in database.

Additional Information

Table 11.
United States Patent Applications Filed by Residents of Foreign Countries¹
(FY 1992 - FY 1996)

Residence	1992	1993	1994	1995	1996	Residence	1992	1993	1994	1995	1996
Total	79,875	78,029	83,920	96,255	89,940	Guatemala	3	1	2	4	2
Albania	1	-	-	-	-	Guinea	1	-	-	-	-
Algeria ²	-	-	-	-	-	Guyana	-	-	-	-	-
Andorra	-	-	1	1	1	Haiti	-	1	1	1	-
Antigua & Barbuda	4	1	2	5	1	Honduras	-	-	2	1	3
Argentina	59	65	77	69	75	Hong Kong	315	303	385	324	467
Armenia	1	-	-	1	-	Hungary	86	61	73	73	63
Aruba	-	-	-	1	2	Iceland	16	4	6	6	8
Australia	905	853	1,078	1,150	1,090	India	56	54	64	98	105
Austria	563	507	637	684	532	Indonesia	15	11	5	7	22
Azerbaijan ³	-	1	2	1	2	Iran	1	9	4	7	14
Bahamas	5	8	8	18	8	Iraq	-	-	-	-	-
Bahrain	-	-	-	-	1	Ireland	118	102	152	135	119
Barbados	-	-	1	2	1	Israel	747	833	998	1,183	1,081
Belarus	2	6	5	8	6	Italy	2,345	2,159	2,160	2,512	2,152
Belgium	676	666	841	1,080	900	Jamaica	1	1	3	4	2
Belize	-	-	-	-	1	Japan	38,135	36,148	36,912	42,944	39,810
Bermuda	2	1	3	4	4	Jordan	-	-	1	5	6
Bolivia	-	-	1	2	1	Kazakhstan ⁶	-	1	1	-	-
Bosnia & Herzegovina	-	-	-	-	1	Kenya	3	2	2	2	2
Brazil	115	106	161	130	136	Korea, Dem. Republic	6	-	2	11	19
British Virgin Islands	2	1	1	-	5	Korea, Republic of	1,444	1,512	2,177	2,943	3,932
Brunei	-	-	-	-	-	Kuwait	2	1	1	4	3
Bulgaria ⁴	9	5	3	9	15	Kyrgyzstan	-	-	-	1	-
Burma	-	-	-	-	-	Laos	-	-	-	-	1
Canada	3,975	4,196	4,638	5,420	4,893	Latvia	-	-	-	-	2
Cayman Islands	2	1	1	1	15	Lebanon	-	2	1	-	3
Chile	9	13	8	16	24	Liechtenstein	14	14	19	13	20
China (mainland)	133	124	114	151	256	Lithuania	-	1	-	5	-
Cocos (Keeling) Islands	-	-	-	-	-	Luxembourg	58	49	41	38	36
Columbia	13	4	16	19	11	Macau	-	1	1	2	-
Comoros	-	-	-	-	-	Macedonia	-	-	-	1	-
Cook Islands	-	-	1	-	-	Malaysia	24	18	44	36	43
Costa Rica	6	5	24	13	3	Mali	-	-	-	1	5
Croatia	-	3	11	15	14	Malta	3	3	1	2	3
Cuba	6	-	3	9	5	Marshall Islands	-	1	-	-	1
Cyprus	2	2	2	1	-	Mauritius	-	1	1	-	-
Czech Republic	-	-	-	11	22	Mexico	104	92	117	97	116
Czechoslovakia	34	28	30	26	14	Moldova	-	-	1	1	1
Denmark	397	496	537	756	567	Monaco	5	6	3	11	13
Dominica	-	-	-	-	2	Mongolia	-	-	1	-	3
Dominican Republic	1	1	2	3	1	Montserrat	-	-	1	1	-
Ecuador	1	5	1	4	1	Morocco	4	2	3	1	5
Egypt	9	6	3	3	5	Myanmar	-	-	-	-	1
El Salvador	-	-	-	1	1	Namibia	-	-	1	-	-
Estonia	-	-	2	1	1	Nauru	-	-	-	-	-
Falkland Islands	-	-	-	-	1	Nepal	-	-	-	1	-
Fiji	-	-	-	-	2	Netherlands	1,579	1,548	1,549	1,727	1,594
Finland	531	576	705	789	797	Netherlands Antilles	-	2	2	1	1
France	4,757	4,554	4,790	5,389	4,678	Neutral Zone	-	-	-	-	-
French Guiana	-	-	-	-	1	New Caledonia	-	1	-	1	1
Gabon	-	-	-	1	-	New Zealand	116	103	148	170	191
Georgia	-	-	2	6	6	Nicaragua	-	1	-	-	-
Germany ⁵	10,851	10,550	11,539	12,421	11,515	Niger	-	-	-	1	-
Ghana	-	1	-	-	1	Nigeria	1	6	2	-	3
Greece	26	23	25	39	22	Norway	198	198	196	251	244

(continued on next page)

- Represents zero.

¹Data include utility, design, plant, and reissue applications. Country listings include possessions and territories of that country unless separately listed in the table.

²FY 1993 data for Algeria corrected to indicate no applications filed.

³FY 1993 data for Azerbaijan corrected to indicate one application filed.

⁴FY 1993 data for Bulgaria corrected to indicate five applications filed.

⁵Germany now includes applications filed by residents of the territory which, prior to October 3, 1990, was the Democratic Republic of Germany.

⁶FY 1993 data for Kazakhstan corrected to indicate one application filed.

Additional Information

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Table 11. (Cont'd)
United States Patent Applications Filed by Residents of Foreign Countries¹
(FY 1992 - FY 1996)

Residence	1992	1993	1994	1995	1996	Residence	1992	1993	1994	1995	1996
Oman	1	-	-	-	-	Swaziland	1	-	-	8	24
Pakistan	5	-	1	3	1	Sweden	1,066	1,162	1,492	1,674	1,439
Panama	1	-	6	7	8	Switzerland	1,839	1,937	1,922	2,075	1,639
Paraguay	-	-	-	-	1	Syria	-	1	-	-	-
Peru	3	5	8	6	4	Taiwan	2,957	3,370	3,847	4,729	5,108
Philippines	10	6	6	17	10	Tanzania	-	-	-	-	-
Poland	17	24	26	19	21	Thailand	24	13	24	33	25
Portugal	9	12	8	18	13	Trinidad & Tobago	2	3	3	1	2
Romania ⁷	2	4	5	7	9	Tunisia	3	-	1	-	-
Russian Federation	177	185	222	247	246	Turkey	1	4	4	6	6
Saudi Arabia	14	17	21	29	17	Turks and Caicos Islands	-	-	-	2	-
Senegal	-	-	-	-	1	Uganda ⁹	1	4	-	1	-
Seychelles	-	-	-	-	3	Ukraine	-	18	17	17	16
Sierra Leone	-	-	-	-	1	United Arab Emirates	2	-	4	2	1
Singapore	76	100	134	161	157	United Kingdom	4,537	4,503	5,104	5,577	4,804
Slovakia ⁸	-	1	5	14	2	Uruguay	3	9	3	9	3
Slovenia	5	24	15	16	21	Uzbekistan	1	1	1	2	-
Solomon Islands	-	-	-	1	2	Vatican City	-	-	1	-	1
South Africa	203	228	238	230	189	Venezuela	58	30	51	38	39
Spain	316	285	367	384	369	Vietnam	-	-	1	-	1
Sri Lanka	-	1	1	3	1	Yemen ¹⁰	-	1	-	2	1
St. Kitts and Nevis	-	-	1	1	-	Yugoslavia	38	11	10	12	4
St. Vincent/The Grenadines	-	1	-	-	-	Zaire	-	-	-	1	-
Suriname	-	-	-	-	1	Zimbabwe	3	1	1	-	-
						Other ¹¹	3	8	12	17	13

⁷FY 1993 data for Romania corrected to indicate four applications filed.

⁸FY 1993 data for Slovakia corrected to indicate one application filed.

⁹FY 1993 data for Uganda corrected to indicate four applications filed.

¹⁰FY 1993 data for Yemen corrected to indicate one application filed.

¹¹Country of origin information not available.

Additional Information

Table 12.
Patents Issued to Residents of the United States
 (FY 1992- FY 1996)¹

State/territory	1992	1993	1994	1995	1996
Total	59,760	59,405	64,119	64,562	66,716
Alabama	324	311	339	346	317
Alaska	54	52	61	48	52
Arizona	921	903	1,027	1,101	1,109
Arkansas	170	162	155	143	160
California	9,284	9,216	10,472	10,672	11,293
Colorado	954	995	1,140	1,218	1,275
Connecticut	1,642	1,701	1,842	1,776	1,692
Delaware	553	491	513	419	468
District of Columbia	67	62	44	66	37
Florida	2,114	2,086	2,241	2,435	2,458
Georgia	793	879	925	1,031	1,077
Hawaii	85	88	116	75	105
Idaho	261	320	350	363	357
Illinois	3,355	3,275	3,266	3,407	3,643
Indiana	1,123	1,070	1,137	1,293	1,357
Iowa	417	442	463	469	474
Kansas	329	319	319	315	335
Kentucky	329	310	343	351	361
Louisiana	537	484	475	407	421
Maine	130	120	149	142	122
Maryland	1,070	1,058	1,137	1,126	1,114
Massachusetts	2,445	2,428	2,669	2,484	2,580
Michigan	3,153	2,981	3,295	3,091	3,271
Minnesota	1,631	1,702	1,914	1,967	1,993
Mississippi	144	136	166	138	162
Missouri	832	759	730	817	778
Montana	109	114	94	130	131
Nebraska	162	191	173	169	176
Nevada	172	152	221	228	209
New Hampshire	361	403	452	455	468
New Jersey	3,189	3,145	3,328	3,067	3,217
New Mexico	261	237	270	276	243
New York	5,047	5,083	5,522	5,371	5,501
North Carolina	933	1,049	1,181	1,230	1,373
North Dakota	63	65	69	66	62
Ohio	3,073	2,929	3,078	3,041	3,061
Oklahoma	672	653	624	606	522
Oregon	686	819	772	847	920
Pennsylvania	3,027	2,893	3,085	2,963	3,120
Rhode Island	237	270	275	257	289
South Carolina	476	517	529	497	528
South Dakota	35	47	47	40	52
Tennessee	594	601	684	722	706
Texas	3,704	3,695	4,089	4,335	4,348
Utah	448	448	473	539	585
Vermont	122	149	173	173	259
Virginia	1,013	983	959	947	950
Washington	1,077	1,036	1,117	1,231	1,298
West Virginia	174	202	147	161	134
Wisconsin	1,342	1,314	1,381	1,409	1,469
Wyoming	36	39	51	74	52
Puerto Rico	28	17	33	22	27
Virgin Islands	2	3	2	3	1
U.S. Pacific Islands ²	-	1	-	2	1
United States ³	-	-	2	1	3

- Represents zero.

¹Data includes utility, design, plant, and reissue patents.

²Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

³No State indicated in database.

Additional Information

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Table 13.
Patents Issued by the United States to Residents of Foreign Countries
(FY 1992 - FY 1996)¹

Residence	1992	1993	1994	1995	1996	Residence	1992	1993	1994	1995	1996
Total	49,968	47,927	49,149	49,679	50,159	Guatemala	3	1	2	-	2
Andorra	-	1	-	-	1	Guyana	1	-	-	-	-
Antigua	-	-	1	-	4	Honduras	-	1	-	2	1
Argentina	21	30	27	38	28	Hong Kong	169	174	200	238	237
Armenia	-	-	-	1	-	Hungary	84	78	50	43	46
Australia	550	433	533	572	534	Iceland	5	4	6	3	3
Austria	424	320	337	356	370	India	23	21	33	39	37
Azerbaijan	-	-	-	-	2	Indonesia	6	7	9	8	2
Bahamas	2	4	-	4	4	Iran	1	1	1	3	-
Barbados	1	-	-	-	-	Ireland	61	63	53	56	84
Belarus	-	-	-	5	2	Israel	377	358	354	440	475
Belgium	382	351	410	391	482	Italy	1,455	1,452	1,376	1,273	1,338
Belize	-	-	-	-	-	Jamaica	1	-	-	2	-
Bermuda	-	-	2	-	3	Japan	23,481	22,942	23,764	22,991	22,979
Bolivia	-	-	-	-	1	Jordan	1	-	-	-	-
Brazil	55	58	57	66	65	Kazakhstan	-	-	-	1	-
British Virgin Islands	1	1	2	-	-	Kenya	1	3	-	1	2
Bulgaria	4	5	2	4	1	Korea, Dem. Republic	-	1	1	-	-
Canada	2,311	2,198	2,275	2,535	2,444	Korea, Republic of	543	789	941	1,175	1,428
Cayman Islands	4	-	2	2	2	Kuwait	2	2	1	1	2
Chile	6	11	6	10	4	Lebanon	1	1	1	1	-
China (mainland)	50	58	41	69	51	Liechtenstein	11	14	11	21	15
Colombia	5	8	7	3	7	Lithuania	-	-	-	1	-
Cook Islands	-	-	-	-	1	Luxembourg	36	37	48	30	35
Costa Rica	5	3	7	7	10	Macau	-	-	-	-	2
Croatia	-	-	3	6	4	Malaysia	8	22	16	11	21
Cuba	-	1	5	-	-	Malta	-	2	1	1	-
Cyprus	-	1	2	3	1	Marshall Islands	-	-	-	1	-
Czech Republic	-	-	-	1	3	Mauritius	1	1	1	-	1
Czechoslovakia	18	17	20	16	13	Mexico	44	44	56	43	45
Denmark	263	288	260	333	326	Monaco	6	6	6	5	5
Dominican Republic	1	-	1	1	-	Morocco	1	1	-	2	1
Ecuador	-	1	3	-	-	Netherlands	1,019	961	944	929	882
Egypt	3	1	4	1	4	Netherlands Antilles	1	-	-	1	-
El Salvador	-	-	-	-	1	New Zealand	58	50	54	59	71
Estonia	-	-	-	2	2	Nicaragua	-	1	-	-	-
Faroe Islands	-	-	1	-	-	Nigeria	2	-	-	1	-
Finland	368	328	337	375	408	Norway	120	120	128	142	142
France	3,332	3,165	3,051	2,991	2,972	Oman	-	1	-	-	-
French Guiana	-	-	-	-	1	Pakistan	1	-	1	2	1
French Polynesia	-	-	-	-	-	Panama	1	1	-	-	1
Georgia	-	-	-	1	-	Paraguay	-	-	-	-	-
Germany ²	7,960	7,172	7,024	6,946	6,898	Peru	4	2	2	3	5
Ghana	-	-	-	1	-	Philippines	10	6	1	4	1
Greece	10	7	16	11	13	Poland	8	7	6	10	12
Guadeloupe	-	-	1	-	-						

(continued on next page)

- Represents zero.

¹Data include utility, design, plant, and reissue patents. Country listings include possessions and territories of that country unless separately listed in the table.

²Germany now includes patents granted to residents of the territory which, prior to October 3, 1990, was the Democratic Republic of Germany.

Additional Information

Table 13. (Cont'd)
Patents Issued by the United States to Residents of Foreign Countries
 (FY 1992 - FY 1996)¹

Residence	1992	1993	1994	1995	1996	Residence	1992	1993	1994	1995	1996
Portugal	9	2	6	5	3	Syria ³	2	-	-	-	-
Romania	-	2	1	1	6	Taiwan	1,195	1,453	1,709	2,026	2,300
Russian Federation	-	2	22	90	111	Tanzania	-	1	-	-	-
San Marino	-	-	1	-	-	Thailand	1	12	13	10	8
Saudi Arabia	7	4	9	11	11	Trinidad & Tobago	3	-	2	2	2
Senegal	1	-	-	-	-	Tunisia	1	-	1	-	-
Singapore	23	46	58	53	87	Turkey	4	-	1	3	2
Slovakia	-	-	-	-	1	Uganda	-	-	3	-	-
Slovenia	-	1	10	8	11	Ukraine	-	-	5	9	14
South Africa	113	89	99	137	112	United Arab Emirates	1	1	1	-	1
Soviet Union	89	68	63	18	14	United Kingdom	2,851	2,462	2,424	2,642	2,668
Spain	177	160	181	185	177	Uruguay	2	-	-	2	2
Sri Lanka	2	3	-	1	2	Uzbekistan	-	-	1	-	2
St. Kitts and Nevis	-	-	-	-	1	Venezuela	28	28	31	33	31
St. Vincent/The Grenadines	-	-	1	-	-	Yemen	-	-	1	-	-
Sweden	747	743	754	905	904	Yugoslavia	20	20	19	7	9
Switzerland	1,369	1,193	1,225	1,236	1,141	Zimbabwe	1	1	4	1	1

³FY 1992 was corrected to indicate the issuance of two patents to Syria.

Additional Information

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Table 14.
Patent Classification Activity
(FY 1992 - FY 1996)

Activity	1992	1993	1994	1995	1996
Original patents professionally reclassified - completed projects	118,339	127,702	138,467	104,078	125,296
Subclasses established	4,001	6,358	5,056	4,364	5,091
Reclassified patents clerically processed, total	509,004	670,388	502,247	695,955	499,101
Original U.S. patents	121,184	124,758	131,062	129,642	122,706
Cross-reference U.S. patents	193,820	262,400	232,143	271,478	245,412
Foreign patents ¹	194,000	283,230	139,042	294,835	130,983

¹FY 1993 actual count based on new automated system introduced in FY 1993.

Table 15.
Scientific and Technical Information
Center Activity
(FY 1996)

Information center activity 1996

Literature Collections and Services

Additions to the literature collections:

Books purchased	3,364
Journal subscriptions purchased	2,203
Journal issues received	39,455
CD-ROM products purchased	54
Microfilm backfiles purchased	398

Literature services provided:

Documents circulated	4,326
Interlibrary loans processed	4,686
Online commercial database searches	11,108
Sequence searches completed	4,449
Number of sequences searched	29,265
Reference questions completed	3,248

Foreign Document Collections and Services

Additions to the foreign patent document collections:

Microfilm reels	408
Microfiche	64,830
CD-ROM	1,544
Documents in paper form (unique)	227,731
Journals	3,045

Foreign document services provided:

Words of foreign material translated (written)	17,494,003
Documents orally translated	3,548

Copies of foreign patents provided:

Self service copies (from FPAS CD-ROM)	43,907
Copies purchased by the public	4,088
Copies provided to PTO staff	12,227

Microfilm reels furnished for copying	85,073
Online and manual searches completed	9,272
Reference questions completed	12,156

Additional Information

Table 16.
Summary of Trademark Examining Activities
(FY 1992 - FY 1996)

Item	1992	1993	1994	1995	1996
Applications for Registration filed	125,237	139,735	155,376	175,307	200,640
Disposal of trademark applications:					
Applications maturing to registration ¹	69,691	86,122	68,853	75,372	91,339
Applications abandoned	26,435	40,752	42,467	42,214	49,189
Trademark first actions	136,047	131,191	147,343	176,764	198,160
Applications approved for publication	110,940	94,161	97,347	118,727	127,481
Certificates of registration issued, total²	62,067	74,349	59,797	65,662	78,674
1946 Act principal register	49,404	54,937	38,238	44,531	56,022
Principal register					
ITU-Statements of Use register	10,345	17,174	19,563	18,513	19,683
1946 Act supplemental register	2,318	2,238	1,996	2,618	2,969
Renewal of registration:					
Applications filed	6,355	7,173	7,004	7,220	7,543
Registrations renewed	5,733	6,182	6,136	6,785	7,346
Affidavits, sec. 8/15:					
Affidavits filed	20,982	21,999	20,850	23,497	22,169
Affidavits disposed	23,186	19,279	17,846	17,935	33,661
Affidavits for benefits under sec. 12(c):					
Affidavits filed	25	5	4	3	6
Affidavits abandoned	-	-	-	-	-
Published under sec. 12(c)	13	21	11	4	11
Amendments to Allege Use filed	3,255	3,138	4,033	5,169	6,232
Statements of Use filed	14,275	25,837	22,057	19,869	25,388
Notice of Allowance issued	42,432	53,053	40,741	51,473	71,117
Pendency time of average trademark application: ³					
Between filing and examiner's first action — all applications	3.1	4.0	5.2	5.3	5.9
Between filing, registration (Use Applications only), abandonments, and NOAs	15.1	14.4	16.3	16.7	16.5
Between filing and issuing a Notice of Allowance (Intent to Use applications only)	13.8	13.0	15.9	16.4	15.9
Active Certificates of Registration (as of 9/30)	834,858	712,000	727,983	751,783	784,667

- Represents zero.

¹Adjusted to include Intent to Use registrations.

²With the exception of Certificates of Registration, renewal of registration, affidavits filed under section 8/15, and 12(c), the workload count includes extra classes.

³Average pendency time in months.

Table 17.
Trademark Applications Filed for Registration
and Renewal and Trademark Affidavits Filed

(FY 1976 - FY 1996)

Year	For registra- tion	For renewal	Section 8 affidavit	Section 12(c) affidavit
1976 ¹	37,074	6,833	15,665	24
1977 ¹	44,539	5,854	13,463	30
1978	50,106	5,567	13,351	77
1979	50,672	5,623	13,864	10
1980	52,149	5,892	13,633	85
1981	55,152	5,693	17,071	40
1982	73,621	5,760	15,068	55
1983	51,014	5,438	12,544	46
1984	61,480	5,926	13,519	5
1985	64,677	5,275	8,823	29
1986	69,253	5,660	8,519	19
1987	70,002	5,871	16,644	34
1988	76,813	6,763	18,316	23
1989	83,169	6,127	17,986	104
1990	127,294	6,602	20,636	5
1991	120,365	5,634	25,763	1
1992	125,237	6,355	20,982	25
1993	139,735	7,173	21,999	5
1994	155,376	7,004	20,850	4
1995	175,307	7,220	23,497	3
1996	200,640	7,543	22,169	6

¹The transition quarter, July 1, 1976, to September 30, 1976, has been omitted.

Table 18.
Summary of Pending Trademark Applications

(As of September 30, 1996)

Stage of processing	Applications for registration
Pending applications, total	271,754
In preexamination processing	83,608
Under examination, total	119,749
Amended, awaiting action by examiner	9,956
Awaiting first action by examiner	8,732
Awaiting subsequent action (by applicant, on appeal, in adversary proceeding, in clerical processing) ¹	101,061
In postexamination processing	68,397

¹Excludes Intent to Use applications that have received a Notice of Allowance and are awaiting a Statement of Use.

Additional Information

Table 19.
Summary of Contested Trademark Cases
(Within the Patent and Trademark Office, as of September 30, 1996)

Activity	Ex- parte	Cancellations	Concurrent use	Interference	Oppositions	Total
Cases pending as of 9/30/95	934	1,896	102	-	5,084	8,016
Cases filed during FY 1996	1,733	1,218	32	-	4,719	7,702
Disposals during FY 1996, total	1,056	1,297	54	-	4,256	6,663
Before hearing	837	1,284	54	-	4,206	6,381
After hearing	219	13	-	-	50	282
Cases pending as of 9/30/96, total	1,611	1,817	80	-	5,547	9,055
Awaiting decision	223	13	-	-	48	284
In process before hearing ¹	² 1,388	1,804	80	-	5,499	8,771
Requests for Extension of Time to Oppose						32,169

- Represents zero.

¹Includes suspended cases.

²Ex parte number reflects an inventory adjustment based on new automated TRAM reports.

Table 20.
Trademarks Registered, Renewed, and Published Under Section 12(c)¹

(FY 1976 - FY 1996)

Year	Certificates of registration issued	Renewed	Published under 12(c)
1976 ²	28,102	6,914	56
1977 ²	25,026	6,251	21
1978	28,921	5,254	84
1979	22,210	5,404	34
1980	14,614	5,862	54
1981	31,306	5,884	77
1982	39,025	6,070	71
1983	41,179	5,695	74
1984	45,475	5,678	22
1985	63,122	5,177	27
1986	48,971	5,550	29
1987	47,522	4,415	24
1988	46,704	5,884	29
1989	51,802	9,209	84
1990	56,515	7,122	19
1991	43,152	6,416	19
1992	62,067	5,733	13
1993	74,349	6,182	21
1994	59,797	6,136	11
1995	65,662	6,785	4
1996	78,674	7,346	11

¹Includes withdrawn numbers.

²The transition quarter, July 1, 1976, to September 30, 1976, has been omitted.

Table 21.
Trademark Applications Filed by Residents of the United States
(FY 1996)

State/territory	1996	State/territory	1996	State/territory	1996
Total	174,337	Kentucky	1,036	Oklahoma	842
Alabama	925	Louisiana	748	Oregon	1,804
Alaska	115	Maine	380	Pennsylvania	5,892
Arizona	2,736	Maryland	3,452	Rhode Island	769
Arkansas	630	Massachusetts	5,998	South Carolina	1,069
California	34,133	Michigan	3,996	South Dakota	158
Colorado	3,744	Minnesota	4,472	Tennessee	2,136
Connecticut	3,755	Mississippi	281	Texas	9,177
Delaware	2,222	Missouri	3,132	Utah	1,830
District of Columbia	1,895	Montana	202	Vermont	463
Florida	8,996	Nebraska	645	Virginia	3,794
Georgia	3,969	Nevada	1,456	Washington	3,706
Hawaii	340	New Hampshire	726	West Virginia	211
Idaho	410	New Jersey	7,367	Wisconsin	2,772
Illinois	9,748	New Mexico	476	Wyoming	107
Indiana	2,001	New York	18,646	Puerto Rico	123
Iowa	1,061	North Carolina	3,156	Virgin Islands	22
Kansas	1,030	North Dakota	103	U.S. Pacific Islands ¹	25
		Ohio	5,447	United States ²	8

¹Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

²No State indicated in database, includes APO filings.

Additional Information

Table 22.
Trademark Applications Filed by Residents of Foreign Countries
(FY 1992- FY 1996)

Residence	1992	1993	1994	1995	1996	Residence	1992	1993	1994	1995	1996
Total	17,521	18,062	19,868	23,084	26,303	Grenada	-	1	-	-	1
Albania	1	-	-	-	-	Guadeloupe	-	1	-	-	3
Algeria	-	1	-	-	-	Guatemala	5	2	5	8	3
Andorra	-	-	-	-	1	Guinea	-	-	1	-	-
Anguilla ¹	-	1	2	1	9	Guyana	1	1	1	-	5
Antigua & Barbuda	3	1	3	1	-	Haiti	3	1	2	1	-
Argentina	69	43	57	80	106	Honduras	-	17	4	-	-
Aruba	-	1	1	-	12	Hong Kong	484	319	396	456	456
Australia	457	424	470	625	663	Hungary	21	6	23	12	27
Austria	202	131	178	169	192	Iceland	9	11	12	6	8
Bahamas	20	19	41	36	86	India	18	23	33	39	69
Bahrain	-	-	-	1	3	Indonesia	18	23	15	5	38
Barbados	19	11	64	29	23	Iran	1	19	16	29	65
Belarus	-	-	-	2	-	Ireland	57	64	71	127	139
Belgium	143	121	177	184	269	Isle of Man	19	11	9	11	12
Belize	-	4	3	7	2	Israel	154	173	242	247	257
Benelux Convention	-	4	2	4	26	Italy	964	1,027	952	1,303	1,251
Bermuda	31	51	21	53	81	Jamaica	19	14	15	23	34
Bolivia	-	-	1	2	-	Japan	1,691	1,780	1,642	1,974	2,153
Botswana	-	-	1	-	-	Jordan	-	-	1	10	3
Brazil	117	137	108	109	157	Kazakhstan	-	-	2	-	-
British Virgin Islands	83	77	93	128	92	Kenya	-	-	5	1	1
Bulgaria	1	3	2	-	10	Korea, Dem. Republic of	-	8	5	20	8
Cambodia	-	-	-	-	-	Korea, Republic of	200	200	376	370	371
Canada	3,294	3,595	4,330	4,721	5,180	Kuwait	-	-	2	2	2
Cayman Islands	26	16	24	20	37	Lebanon	3	-	1	1	1
Central African Republic	-	-	-	1	-	Liberia	1	-	4	-	-
Channel Islands	36	33	31	36	53	Libya	2	-	-	-	-
Chile	27	46	29	31	43	Liechtenstein	36	79	36	42	70
China (mainland)	49	67	97	116	128	Lithuania	-	-	-	-	1
Colombia	25	43	52	57	40	Luxembourg	64	15	60	32	93
Cook Islands	-	15	-	-	4	Macau	-	1	1	2	2
Costa Rica	10	15	19	15	18	Macedonia	-	-	-	-	4
Croatia	-	-	4	1	1	Malaysia	23	26	36	39	22
Cuba	-	-	11	10	17	Mali	-	-	-	1	-
Cyprus	2	4	3	2	9	Malta	-	1	1	1	-
Czechoslovakia	15	51	34	43	39	Martinique	-	-	1	-	-
Denmark	121	142	142	176	281	Mauritius	-	-	2	3	-
Dominica	-	-	1	11	9	Mexico	284	351	435	488	566
Dominican Republic	7	8	5	38	53	Micronesia	-	1	-	-	-
Ecuador	5	10	15	9	20	Monaco	17	11	13	24	53
Egypt	5	1	-	5	2	Morocco ³	-	2	1	1	-
El Salvador	6	7	7	2	2	Myanmar	-	-	-	-	5
EPO	-	-	-	-	1	N. Mariana Islands	1	2	-	1	2
Faroe Islands	-	-	1	-	-	Namibia	1	-	-	-	-
Fiji	-	-	2	-	1	Nauru	-	-	-	-	2
Finland	112	129	106	194	186	Navassa Island	-	-	-	1	-
France	1,817	1,484	1,712	1,723	2,081	Netherlands	515	478	632	709	904
French Guiana	-	-	-	-	-	Netherlands Antilles	37	35	20	63	30
French Polynesia	-	1	4	2	-	New Zealand	71	143	96	104	163
Germany ²	1,982	1,947	1,912	2,655	3,124	Nicaragua	1	-	-	4	1
Ghana	-	-	-	-	-	Nigeria	-	3	1	1	1
Gibraltar	-	5	2	4	8	Norfolk Island	-	1	-	-	-
Greece	14	19	21	28	28	Norway	59	112	82	59	97
Greenland	-	-	-	5	2						

(continued on next page)

- Represents zero.

¹Anguilla filings for FY 1993 corrected to reflect one application.

²Germany now includes applications filed by residents of the territory which, prior to October 3, 1990, was the Democratic Republic of Germany.

³Morocco filing for FY 1992 corrected to reflect no applications.

Additional Information

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Table 22. (Cont'd)
Trademark Applications Filed by Residents of Foreign Countries
(FY 1992- FY 1996)

Residence	1992	1993	1994	1995	1996	Residence	1992	1993	1994	1995	1996
Oman	-	-	-	1	-	Spain	394	343	312	338	426
Pakistan	6	11	6	5	1	Sri Lanka	11	4	3	2	3
Panama	35	26	23	27	16	Sudan	-	-	-	-	1
Papua New Guinea ⁴	-	2	-	2	-	Swaziland	4	5	1	-	-
Paraguay ⁵	1	-	-	2	3	Sweden	389	456	398	506	575
Peru	19	4	8	19	14	Switzerland	547	727	908	1,134	1,155
Philippines	12	11	13	29	11	Syria	-	1	-	-	-
Pitcairn Islands	-	-	-	-	3	Taiwan	470	460	504	508	563
Poland	11	1	10	25	22	Thailand	34	51	31	17	43
Portugal	37	52	23	28	35	Tokelau Islands	-	-	-	-	1
Qatar	-	-	-	-	1	Trinidad & Tobago	7	5	22	20	4
Romania	3	-	4	1	-	Tunisia	-	-	-	7	1
Russian Federation	25	19	40	59	35	Turkey	7	11	11	18	19
Saint Lucia	-	-	1	-	-	Turks and Caicos Islands	1	-	6	1	9
Saint Pierre/Miquelon	-	-	-	-	2	Uganda	2	1	1	2	12
Samoa	-	1	-	-	3	Ukraine	1	-	6	-	2
San Marino	1	-	-	1	-	United Arab Emirates	3	8	4	5	14
Saudi Arabia	4	7	6	9	15	United Kingdom	1,705	1,999	2,129	2,384	2,926
Scotland	27	-	33	75	92	Uruguay	10	5	8	6	11
Seychelles	-	-	-	-	5	Uzbekistan	-	-	-	1	1
Sierra Leone	-	-	-	1	4	Vanuatu	4	4	-	-	-
Singapore	66	97	172	138	110	Venezuela	78	51	25	51	40
Slovakia	-	-	-	5	3	Vietnam	-	-	1	1	5
Slovenia	-	8	12	5	7	Wales	10	-	-	-	-
Solomon Islands	-	-	-	1	-	Yugoslavia	21	8	1	1	2
Somalia	-	1	-	4	-	Zaire	-	-	-	-	1
South Africa	97	54	99	87	84	Zimbabwe	1	-	7	2	1

⁴Papua New Guinea filings for FY 1993 corrected to reflect two applications.

⁵Paraguay filings for FY 1992 corrected to reflect one application.

Additional Information

Table 23.
Trademarks Registered to Residents of the United States
(FY 1996)

State/territory	1996	State/territory	1996	State/territory	1996
Total	69,138	Kentucky	316	Oklahoma	275
Alabama	292	Louisiana	223	Oregon	633
Alaska	26	Maine	163	Pennsylvania	1,682
Arizona	636	Maryland	855	Rhode Island	207
Arkansas	132	Massachusetts	1,605	South Carolina	283
California	8,058	Michigan	1,436	South Dakota	65
Colorado	947	Minnesota	1,574	Tennessee	637
Connecticut	692	Mississippi	114	Texas	2,477
Delaware	13,521	Missouri	1,095	Utah	533
District of Columbia	426	Montana	60	Vermont	122
Florida	2,434	Nebraska	225	Virginia	977
Georgia	1,144	Nevada	780	Washington	1,287
Hawaii	124	New Hampshire	201	West Virginia	38
Idaho	104	New Jersey	1,833	Wisconsin	994
Illinois	2,822	New Mexico	146	Wyoming	69
Indiana	748	New York	5,170	Puerto Rico	30
Iowa	476	North Carolina	892	Virgin Islands	7
Kansas	365	North Dakota	55	U.S. Pacific Islands ¹	3
		Ohio	2,079	United States ²	7,050

¹Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

²No State indicated in database.

Additional Information

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Table 24.
Trademarks Registered to Residents of Foreign Countries
(FY 1992 - FY 1996)

Residence	1992	1993	1994	1995	1996	Residence	1992	1993	1994	1995	1996
Total	7,281	1,1054	8,066	7,822	9,536	Kampuchea	-	-	-	-	1
Afghanistan	-	-	-	-	-	Kenya	1	-	1	3	2
Anguilla	-	-	-	2	1	Kiribati	-	5	1	-	-
Antigua & Barbuda	3	1	-	3	3	Korea, Dem. Republic of	-	-	-	-	2
Argentina	24	26	21	23	29	Korea, Republic of	83	129	103	108	183
Australia	201	268	196	177	199	Kuwait	-	-	-	-	1
Austria	62	116	82	68	72	Lebanon	2	7	4	3	4
Bahamas	3	14	10	18	11	Liberia	8	5	3	5	4
Bahrain	1	2	-	-	-	Libya	1	-	1	-	-
Bangladesh	-	-	1	1	-	Liechtenstein	15	29	15	15	20
Barbados	6	5	4	10	8	Luxembourg	6	21	18	11	9
Belgium	76	110	64	67	96	Macau	-	2	-	1	1
Belize	1	-	1	-	1	Malaysia	1	4	9	8	5
Benelux Convention	6	-	-	-	-	Malta	2	2	-	2	-
Bermuda	3	11	16	15	27	Mauritius	2	-	-	-	2
Bolivia	-	-	-	-	-	Mexico	101	152	137	142	183
Brazil	54	67	73	60	53	Monaco	4	7	5	5	9
British Virgin Islands	9	32	24	33	33	Morocco	-	-	-	-	-
Canada	1,218	1,680	1,343	1,438	1,722	Namibia	-	1	-	-	-
Cayman Islands	12	10	12	12	18	Netherlands	213	350	248	231	303
Channel Islands ¹	3	-	-	1	4	Netherlands Antilles	8	14	7	14	19
Chile	14	19	13	17	18	New Zealand	31	58	44	37	43
China (mainland)	31	67	38	45	60	Nicaragua	-	1	-	1	2
Colombia	19	33	25	18	28	Nigeria	-	2	2	1	7
Cook Islands	-	1	3	8	1	Norway	39	46	41	34	48
Costa Rica	4	6	10	9	12	Oman	-	-	-	1	-
Cuba	1	-	4	1	7	Pakistan	1	3	2	4	6
Cyprus	-	2	3	5	4	Panama	24	31	23	15	23
Czechoslovakia	6	6	13	6	6	Papua New Guinea	-	-	-	-	3
Denmark	72	79	70	79	78	Paraguay	-	1	-	-	-
Dominica	-	-	-	2	-	Peru	5	11	8	3	6
Dominican Republic	4	2	3	7	11	Philippines	3	11	2	7	4
Ecuador	1	4	3	12	7	Poland	6	7	6	3	20
Egypt	-	2	2	-	1	Portugal	5	25	17	8	18
El Salvador	5	4	4	5	5	Romania	-	1	-	1	1
Fiji	1	1	-	-	1	Russian Federation	10	13	4	-	1
Finland	37	85	57	65	82	St. Kitts and Nevis	-	-	-	-	2
France	828	1,334	797	754	907	St. Lucia	-	-	1	-	1
French Polynesia	-	2	-	-	2	San Marino	-	-	-	-	1
Germany ²	702	1,224	847	821	1,004	Saudi Arabia	-	1	2	2	6
Ghana	2	-	1	-	2	Scotland	1	-	-	1	3
Gibraltar	-	-	-	1	2	Senegal	-	-	-	1	-
Greece	1	8	12	11	18	Singapore	17	28	23	33	45
Greenland	-	-	-	-	1	South Africa	9	34	24	33	35
Grenada	-	-	-	-	-	Spain	147	301	197	154	200
Guadeloupe	-	1	-	-	-	Sprattly Islands	-	1	2	5	3
Guatemala	8	10	-	4	2	Sri Lanka	-	1	2	7	3
Guyana	-	2	-	1	4	Sweden	128	224	192	169	228
Hague Agreement	-	-	-	-	1	Switzerland	304	486	258	327	460
Haiti	5	-	1	-	1	Syria	2	2	3	2	1
Honduras	-	-	1	6	4	Taiwan	223	357	290	234	285
Hong Kong	130	175	160	127	168	Thailand	16	29	16	20	9
Hungary	8	9	10	8	9	Trinidad & Tobago	2	7	8	7	7
Iceland	1	9	2	5	3	Turkey	6	4	2	6	4
India	21	16	26	21	32	Turks and Caicos Islands	-	-	1	1	3
Indonesia	5	7	11	7	13	United Arab Emirates	-	-	-	-	2
Iran	7	4	4	5	5	United Kingdom	799	1,113	826	799	957
Ireland	20	28	35	27	43	Uruguay	1	-	3	6	4
Isle of Man	1	1	-	2	1	Venezuela	24	46	25	17	20
Israel	41	82	70	83	132	Vietnam	1	2	3	1	2
Italy	571	789	469	486	517	Western Samoa	-	-	-	1	-
Jamaica	6	10	5	4	7	Yugoslavia	2	7	6	4	3
Japan	793	1,108	932	740	841	Zimbabwe	1	1	-	3	1
Jordan	-	-	1	-	1	Other ³	-	-	2	6	3

- Represents zero.

¹FY 1993 data for the Channel Islands was corrected to reflect no applications filed.

²Germany now includes applications filed by residents of the territory which, prior to October 3, 1990, was the Democratic Republic of Germany.

³Country of origin information not available.

Additional Information

Table 25.
Patent Services Workload
(FY 1996)

Item	1996
Search room:	
New patents and cross references filed	375,888
Reclassified patents filed	651,460
Assignments:	
Abstracts of title	374
Documents recorded/processed	219,551
Copies supplied:	
Foreign exchange programs ¹	19,715,400
Patent and trademark depository libraries	18,791,360
Public, other government, agencies, and USPTO	639,227
Advance orders	690,520
Certified documents	111,597
Total files processed ²	582,687

¹Includes copies of patents disseminated on paper, microfilm, and CD-ROM.

²The number of patent files provided from the PTO File Repository and the Federal Record Center to the public and the PTO, new issues filed, and new abandonments filed.

Table 26.
Trademark Services Workload
(FY 1996)

Item	1996
Search room:	
Copies of new registrations filed	367,638
Copies of new drawings filed in pending file	554,243
Official register:	
Total updates stamped on marks	49,082
Assignments:	
Abstracts of title	149
Documents recorded/processed	105,365
Copies supplied to the public, other government agencies, and USPTO	28,135
Certified documents	43,150
Total files processed ¹	320,695

¹The number of trademark files provided from the PTO File Repository to the public and the PTO, new issues filed, and abandonments filed.

Additional Information

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Table 27.
Actions on Petitions to the Commissioner of Patents and Trademarks
(FY 1993 - FY 1996)

Nature of petition	1993	1994	1995	1996
PATENT MATTERS				
Actions of patent petitions ¹ , total	36,355	46,456	34,840	33,489
Acceptance of:				
Amendments filed after payment of issue fee	76	52	45	52
Late assignments	54	52	66	59
Late issue fees	893	1,068	908	878
Late priority papers	57	75	70	66
Access	63	82	1	9
Certificates of correction	21,040	26,268	16,502	15,564
Deferment of issue	32	45	23	26
Filing date	1,105	3,195	2,748	2,302
Interference	1	1	-	1
Make special:				
Infringement/manufacture	210	151	158	28
Other	1,073	1,026	1,056	1,234
Miscellaneous ²	2,653	3,323	2,731	2,639
Maintenance fees	752	942	780	822
Public use	3	4	7	5
Reexamination proceedings	74	90	71	62
Restriction	61	73	59	88
Revivals	3,322	4,173	4,144	3,315
Rule 47 (37 CFR 1.47)	279	590	306	530
Supervisory authority	879	567	598	967
Suspend rules	194	780	791	727
Withdrawal of attorney	567	635	659	786
Withdrawal from issue	662	603	635	680
Change of inventorship	520	849	829	778
Withdrawals of holding of aband./pat. lapse	1,785	1,812	1,653	1,871
TRADEMARK MATTERS				
Actions on trademark petitions, total	879	1,107	1,348	1,233
Affidavits of Use and extensions	71	140	118	80
Decision by examiner	-	14	8	12
Grant application filing date	51	63	111	51
Interferences	2	1	-	1
Make special	30	52	92	116
Miscellaneous	16	-	12	10
Oppositions and extensions	18	13	13	20
Record documents affecting title	5	-	-	1
Restore jurisdiction to examiner	5	11	12	46
Review board decisions	9	13	2	15
Revive	562	709	839	762
Sections 7 correction/amendment	10	20	7	7
Section 9 renewal	7	9	6	1
Section 8 or 15	52	37	32	36
Waive fees/refunds	41	25	96	75
PETITIONS AWAITING ACTION AS OF 9/30/93				
Patent matters ³	15,671	404	976	872
Trademark petitions awaiting response	202	60	36	25
Trademark petitions awaiting action	183	104	97	180

- Represents zero.

¹FY 1993 total actions on patent petitions corrected.

²FY 1993 data includes petitions under rule 28 (37 CFR 1.28).

³FY 1993 data includes pending Certificates of Correction.

Additional Information

Table 28.
Cases in Litigation

(Selected courts of the United States, as of September 30, 1996)

Activity	Patents	Trade-marks	Total
SUPREME COURT			
Ex parte cases, total	6	1	7
Cases pending as of 9/30/95	1	1	2
Cases filed during FY 1996	5	-	5
Disposals, total	5	1	6
Certiorari denied	5	1	6
Certiorari dismissed	-	-	-
Certiorari granted-affirmed	-	-	-
Certiorari granted-reversed	-	-	-
Total cases pending as of 9/30/96	1	-	1
UNITED STATES DISTRICT COURTS			
Total pending and filed	37	2	39
Civil actions pending as of 9/30/95	21	1	22
Filed during FY 1996	16	1	17
Disposals, total	22	1	23
Affirmed	4	-	4
Modified	-	-	-
Reversed ¹	5	-	5
Remanded	2	-	2
Dismissed	11	1	12
Amicus/intervene	-	-	-
Examiner testimony	-	-	-
Transfer	-	-	-
Civil actions pending as of 9/30/96, total	15	1	16

- Represents zero.

¹Of the five cases before the court for decision, four which involved the same plaintiffs and issues were consolidated into one case.

Table 29.
Cases in Litigation in U.S. Courts of Appeals

(Selected courts of the United States, as of September 30, 1996)

Item	Ex parte		Inter partes		Total
	Patents	Trade-marks	Patents	Trade-marks	
UNITED STATES COURT OF APPEALS ¹					
Pending and filed, total	83	6	64	118	271
Cases pending as of 9/30/95	29	2	47	102	180
Cases filed during FY 1996	54	4	17	16	91
Disposals, total					
Affirmed	21	1	3	8	33
Modified	-	-	-	-	-
Reversed	5	-	2	1	8
Remanded	10	1	1	-	12
Dismissed	13	1	1	7	22
Amicus/intervene	2	-	-	-	2
Examiner testimony	-	-	-	-	-
Transfer	-	-	-	-	-
Writs of mandamus:					
Granted	-	-	-	-	-
Granted-in-part	-	-	-	-	-
Denied	-	-	-	-	-
Dismissed	1	-	-	-	1
Total cases pending as of 9/30/96					
	31	3	57	102	193

- Represents zero.

¹Includes Federal Circuit and others.

Table 30.
Cases in Litigation,¹ by Month

(Other jurisdictions—reported cases, FY 1996)

Month	Patent suits	Trade-mark suits
Total for FY 1996	1,233	1,217
October (1995)	52	46
November	107	91
December	101	108
January (1996)	87	93
February	65	76
March	117	122
April	92	87
May	95	95
June	120	91
July	127	149
August	100	80
September (1996)	170	179

¹Notices received pursuant to 35 USC 290 and 15 USC 1116 for both suits filed and decisions.

PTO Activities



Bicycle Exhibit



Community Day



Trademark Expo



Hispanic Heritage Celebration



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